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LEGISLATIVE HISTORY
Public Law 85-625
S. 3778

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Index and summary of S. 3778

May	8, 1958	Sen. Smathers introduced S. 3778 which was referred to the Senate Interstate and Foreign Commerce Committee. Print of bill as introduced.
May	26, 1958	Senate committee ordered S. 3778 reported with amendments.
June	3, 1958	Senate committee reported S. 3778 with amendments. S. Report No. 1647. Print of bill and report.
June	5, 1958	Rep. Harris introduced H. R. 12832 which was referred to the House Interstate and Foreign Commerce Committee. Print of bill as introduced.
June	10, 1958	Senate made S. 3778 its unfinished business.
June	11, 1958	Senate passed S. 3778 with amendments.
June	12, 1958	House committee ordered H. R. 12832 reported with amendment.
June	16, 1958	Print of S. 3778 as passed by Senate.
June	18, 1958	House committee reported H. R. 12832 with amendments. H. Report No. 1922. Print of bill and report.
June	25, 1958	Rules Committee reported resolution for consideration of H. R. 12832.
June	27, 1958	House passed H. R. 12832 with amendments. House passed S. 3778 with amendments (substituting language of H. R. 12832. House appointed conferees. H. R. 12832 was laid on the table due to the passage of S. 3778.
June	30, 1958	Senate conferees were appointed. Rep. Harris inserted text of H. R. 12832 as passed by the House.
July	22, 1958	Conferees agreed to file a report.
July	24, 1958	House received conference report on S. 3778. H. Report No. 2274. Print of report.
July	30, 1958	Both Houses agreed to the conference report on S. 3778.
Aug.	12, 1958	Approved: Public Law 85-625.

DIGEST OF PUBLIC LAW 85-625

TRANSPORTATION ACT OF 1958. Contains various amendments to the Interstate Commerce Act, including a provision to return to economic regulation the transportation by motor vehicle of frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, hemp, wool imported from any foreign country, wool tops and noils, and wool waste which has been carded, spun, woven, or knitted. Authorizes the Interstate Commerce Commission to guarantee, until March 31, 1961, certain loans of common carriers by railroad. Clarifies the authority of ICC to remove discriminations against interstate commerce, primarily making adjustments in intrastate rates of carriers by railroad subject to the Commission's jurisdiction.

85TH CONGRESS
2D SESSION

S. 3778

IN THE SENATE OF THE UNITED STATES

MAY 8, 1958

Mr. SMATHERS introduced the following bill ; which was read twice and referred to the Committee on Interstate and Foreign Commerce

A BILL

To amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Transportation Act of
4 1958".

5 SEC. 2. Section 1 of the Interstate Commerce Act, as
6 amended, is amended (1) by inserting in subparagraph
7 (a) of paragraph (2) thereof, after the word "aforesaid"
8 and before the semicolon following that word, the words
9 "except as otherwise provided in this part" and (2) by

1 striking out the period at the end of the proviso in subpara-
2 graph (a) of paragraph (17) thereof and inserting in lieu
3 thereof the following "and except as otherwise provided in
4 this part."

5 SEC. 3, (a) The first sentence of paragraph (4) of
6 section 13 of the Interstate Commerce Act, as amended, is
7 amended to read as follows:

8 "(4) Whenever in any such investigation the Com-
9 mission, after full hearing, finds that any such rate, fare,
10 charge, classification, regulation, or practice causes any undue
11 or unreasonable advantage, preference, or prejudice as be-
12 tween persons or localities in intrastate commerce on the one
13 hand and interstate or foreign commerce on the other hand,
14 or any undue, unreasonable, or unjust discrimination against,
15 or undue burden on, interstate or foreign commerce (which
16 the Commission may find without considering in totality the
17 operations or results thereof of any carrier, or group or
18 groups of carriers wholly within any State), which is hereby
19 forbidden and declared to be unlawful, it shall prescribe the
20 rate, fare, or charge, or the maximum or minimum, or maxi-
21 mum and minimum, thereafter to be charged, and the clas-
22 sification, regulation, or practice thereafter to be observed,
23 in such manner as, in its judgment, will remove such ad-
24 vantage, preference, prejudice, discrimination, or burden:
25 *Provided*, That upon the filing of any petition authorized

1 by the provisions of paragraph (3) hereof to be filed by
2 the carrier concerned, the Commission shall forthwith insti-
3 tute an investigation as aforesaid into the lawfulness of such
4 rate, fare, charge, classification, regulation, or practice
5 (whether or not theretofore considered by any State agency
6 or authority and without regard to the pendency before any
7 State agency or authority of any proceeding relating thereto)
8 and shall give special expedition to the hearing and decision
9 therein."

10 (b) Section 13 of the Interstate Commerce Act, as
11 amended, is amended by inserting after paragraph (4)
12 thereof a new paragraph (5) as follows:

13 "(5) In any proceeding before the Commission in-
14 volving an investigation of or authorization or permission for
15 a general adjustment in rates, fares, or charges, or any of
16 them, of carriers subject to this part for the transportation
17 of property or passengers, or both, in interstate commerce
18 throughout, or substantially throughout, the United States,
19 or one or more of the three major rate classification terri-
20 tories thereof (Official, Western or Southern), any such
21 carrier or carriers parties thereto may by petition seek
22 authority or permission of the Commission for a comparable
23 adjustment of rates, fares, or charges for the transportation
24 of like property or passengers wholly within an individual
25 State or individual States. If, in such proceeding, the Com-

1 mission finds (as it is hereby authorized to do) that au-
2 thorizing or permitting an adjustment in interstate rates,
3 fares, or charges without authorizing or permitting a com-
4 parable adjustment in intrastate rates, fares, or charges would
5 cause, or create a circumstance of, advantage, preference,
6 prejudice, discrimination or burden declared in paragraph
7 (4) of this section to be unlawful, the Commission shall,
8 incident to any adjustment it may authorize or permit in
9 such interstate rates, fares, or charges, authorize or permit
10 a comparable adjustment in such intrastate rates, fares, or
11 charges. Pursuant to such authorization the said carrier
12 or carriers, upon making any adjustment so authorized or
13 permitted by the Commission in such interstate rates, fares,
14 or charges may without further authority make a comparable
15 adjustment in such intrastate rates, fares, or charges, and
16 adjustments so made in intrastate rates, fares, or charges
17 shall be observed while continued in effect by the said
18 carrier or carriers, the law of any State or the decision or
19 order of any State authority to the contrary notwithstand-
20 ing.”

21 SEC. 4. The Interstate Commerce Act, as amended, is
22 amended by inserting after section 13 thereof a new section
23 13a as follows:

24 “SEC. 13a. A carrier or carriers subject to this part, if their
25 rights with respect to the discontinuance or change, in whole or

1 in part, of the operation or service of any train or ferry
2 engaged in the transportation of passengers or property in
3 interstate, foreign and intrastate commerce, or any of them,
4 or of the operation or service of any station, depot or other
5 facility where passengers or property are received for trans-
6 portation in interstate, foreign and intrastate commerce, or
7 any of them, are subject to any provision of the constitution
8 or statutes of any State or any regulation or order of (or
9 are the subject of any proceeding pending before) any court
10 or an administrative or regulatory agency of any State, may,
11 but shall not be required to, file with the Commission, mail
12 to the Governor of each State in which such train, ferry,
13 station, depot or other facility is operated, and post in every
14 station, depot or other facility directly affected thereby,
15 notice at least thirty days in advance of any such proposed
16 discontinuance or change. The carrier or carriers filing such
17 notice may discontinue or change any such operation or serv-
18 ice pursuant to such notice except as otherwise ordered by
19 the Commission pursuant to this section, the laws or con-
20 stitution of any State, or the decision or order of, or the
21 pendency of any proceeding before, any court or State au-
22 thority to the contrary notwithstanding. Upon the filing
23 of such notice the Commission shall have authority during
24 said thirty days' notice period, either upon complaint or
25 upon its own initiative without complaint, to enter upon an

1 investigation of the proposed discontinuance or change.
2 Upon the institution of such investigation, the Commission,
3 by order served upon the carrier or carriers affected thereby
4 at least ten days prior to the day on which such discontinu-
5 ance or change would otherwise become effective, may
6 require such train, ferry, station, depot or other facility to be
7 continued in operation or service, in whole or in part,
8 pending hearing and decision in such investigation, but not
9 for a longer period than four months beyond the date when
10 such discontinuance or change would otherwise have become
11 effective. If, after hearing in such investigation, whether
12 concluded before or after such discontinuance or change has
13 become effective, the Commission finds that the operation
14 or service of such train, ferry, station, depot or other facility
15 is required by public convenience and necessity and that
16 such operation or service will not result in a net loss there-
17 from to the carrier or carriers and will not otherwise unduly
18 burden interstate or foreign commerce, the Commission may
19 by order require the continuance or restoration of operation
20 or service of such train, ferry, station, depot or other facility,
21 in whole or in part, for a period not to exceed one year from
22 the date of such order. The provisions of this section shall
23 not supersede the laws of any State or the orders or regula-
24 tions of any administrative or regulatory body of any State
25 applicable to such discontinuance or change unless notice

1 as in this section provided is filed with the Commission.
2 On the expiration of an order by the Commission after such
3 investigation requiring the continuance or restoration of
4 operation or service, the jurisdiction of any State as to such
5 discontinuance or change shall no longer be superseded
6 unless the procedure provided by this section shall again
7 be invoked by the carrier or carriers."

8 SEC. 5. Section 15a of the Interstate Commerce Act,
9 as amended, is amended by inserting after paragraph (2)
10 thereof a new paragraph (3) as follows:

11 "(3) In a proceeding involving competition with an-
12 other mode of transportation, the Commission, in deter-
13 mining whether a rail-rate is lower than a reasonable mini-
14 mum rate, shall consider the facts and circumstances attend-
15 ing the movement of the traffic by railroad and not by such
16 other mode."

17 SEC. 6. The Interstate Commerce Act, as amended, is
18 hereby amended by inserting immediately after section 20c
19 thereof the following new section:

20 "SEC. 20d. (1) It is the purpose of this section to aid
21 common carriers by railroad subject to this part in rendering
22 proper transportation service to the public by providing tem-
23 porary financial assistance to them in obtaining funds to fi-
24 nance or refinance the acquisition or construction of equip-
25 ment or additions and betterments for use in transportation

1 service and in obtaining funds needed for operating expenses,
2 working capital, and interest on existing obligations, all to
3 the end of fostering the preservation and development of a
4 national transportation system adequate to meet the needs of
5 the commerce of the United States, of the postal service,
6 and national defense.

7 “(2) In order to carry out the purpose declared in this
8 section, the Commission, upon terms and conditions pre-
9 scribed by it and consistent with the provisions of this sec-
10 tion, may guarantee any lender, or trustee under a trust in-
11 denture or agreement for the benefit of the holders of any
12 securities issued thereunder, by commitment to purchase,
13 agreement to share losses, or otherwise, against loss of prin-
14 cipal or interest on any loan, discount, or advance, or on
15 any commitment in connection therewith, which may be
16 made for the purposes set forth in this section, except that
17 there shall be no guarantee of a loan to be used in reduction
18 of the principal of an obligation other than in connection
19 with the refinancing of an equipment obligation: *Provided*,
20 That in no event shall the aggregate of all loans guaranteed
21 by the Commission, including unpaid interest, exceed
22 \$700,000,000, of which no more than \$150,000,000 may be
23 loans for operating expenses and interest on existing
24 obligations.

25 “(3) Any such carrier may, prior to December 31,

1 1960, make application to the Commission, in such form as
2 the Commission may prescribe, requesting guaranty by the
3 Commission as herein authorized and setting forth the amount
4 and term of the loan to be guaranteed; the purpose of the
5 loan and the use to which the proceeds therefrom will be
6 applied; the inability of the applicant to obtain such funds
7 on reasonable terms without such guaranty; the character
8 and value of the security; if any, that the applicant will
9 pledge as collateral for the loan; and that the loan is neces-
10 sary or appropriate to effectuate the purpose of this section.
11 The application shall be accompanied by statements showing
12 in detail such facts as the Commission may require with
13 regard to the situation of the applicant. The Commission
14 shall give preference to and expedite the consideration of
15 any such application.

16 “(4) No guaranty shall be made under this section—

17 “(A) unless the Commission is of the opinion that
18 the proposed loan is necessary or appropriate to effectu-
19 ate the purpose of this section;

20 “(B) unless the Commission is of the opinion that
21 without such guaranty the applicant carrier would be
22 unable to obtain necessary funds, on reasonable terms,
23 for the purposes for which the loan is sought;

24 “(C) if the loan involved is at a rate of interest

1 which, in the judgment of the Commission, is unreason-
2 ably high, or if the terms of such loan permit full repay-
3 ment more than fifteen years after the date thereof;

4 “(D) unless the Commission is of the opinion that
5 the prospective earning power of the applicant carrier,
6 together with the character and value of the security
7 pledged, if any, furnish reasonable assurance of the ap-
8 plicant's ability to repay the loan within the time fixed
9 therefor and reasonable protection to the United States.

10 “(E) unless the Commission is of the opinion that
11 the applicant carrier is not in need of reorganization of
12 its capital structure.

13 “(F) unless the applicant carrier agrees that it will
14 declare no dividends on its capital stock as long as the
15 loan remains unpaid.

16 “(5) The Commission may consent to the modification
17 of the provisions as to rate of interest, time of payment of
18 interest or principal, security, if any, or other terms and
19 conditions of any guaranty which it shall have entered into
20 pursuant to this section, or the renewal or extension of any
21 such guaranty; whenever the Commission shall determine it
22 to be equitable to do so.

23 “(6) Payments required to be made as a consequence of
24 any guaranty by the Commission pursuant to the provisions
25 of this section shall be made by the Secretary of the Treasury

1 from funds hereby authorized to be appropriated in such
2 amounts as may be necessary for the purpose of carrying out
3 the provisions of this section.

4 “(7) The Commission shall prescribe and collect a
5 guaranty fee in connection with each loan guaranteed under
6 this section. Such fees shall not exceed such amounts as the
7 Commission estimates to be necessary to cover the admin-
8 istrative costs of carrying out the provisions of this section.
9 Sums realized from such fees shall be deposited in the Treas-
10 ury as miscellaneous receipts.

11 “(8) (a) To permit it to make use of such expert advice
12 and services as it may require in carrying out the provisions
13 of this section, the Commission may use available services
14 and facilities of departments and other agencies and instru-
15 mentalities of the Government, with their consent and on a
16 reimbursable basis.

17 “(b) Departments, agencies, and instrumentalities of
18 the Government shall exercise their powers, duties, and
19 functions in such manner as will assist in carrying out the
20 objectives of this section.

21 “(9) Administrative expenses under this section shall
22 be paid from appropriations made to the Commission for
23 administrative expenses.

24 “(10) Except with respect to such applications as may
25 then be pending, the authority granted by this section shall

1 terminate at the close of December 31, 1960: *Provided*,
2 That its provisions shall remain in effect thereafter for the
3 purposes of guaranties made by the Commission."

4 SEC. 7. The Interstate Commerce Act, as amended, is
5 amended by inserting after section 25 thereof a new section
6 25a as follows:

7 "SEC. 25a. (1) It is hereby declared to be the gen-
8 eral policy of the Congress to promote and encourage, in
9 the interest of national defense and public welfare, the con-
10 struction, reconstruction, reconditioning, or acquisition of
11 equipment and other property used in the transportation
12 business by common carriers subject to the Interstate Com-
13 merce Act, and the retirement (in whole or in part) of debt
14 incurred, after the effective date of this section, for such pur-
15 poses. It is the purpose of this section to provide imple-
16 mentation of this general policy through the establishment
17 by any such carrier of a construction reserve fund, with the
18 privileges and subject to the limitations herein prescribed.
19 Such construction reserve fund shall be established, main-
20 tained, expended, and used in accordance with the provisions
21 of this section and rules or regulations to be prescribed by
22 the Interstate Commerce Commission and the Secretary of
23 the Treasury. Such fund shall be maintained in a separate
24 cash deposit or in obligations of the United States or any
25 agency thereof.

1 “(2) All earnings of the fund shall be deposited in the
2 fund. Such earnings may be withdrawn by the carrier only
3 for expenditures for the purposes established in paragraph
4 (1) of this section. If such earnings are not expended for
5 such purposes within five years from the date of deposit in
6 the fund, 85 per centum of such earnings shall be paid to
7 the United States as a tax, in lieu of any other tax which
8 may be applicable to such earnings.

9 “(3) In computing the taxable income under section 63
10 (a) of the Internal Revenue Code of 1954, as amended, of
11 any common carrier subject to this Act there shall be allowed
12 as a deduction, in addition to the deductions specified in that
13 Code, the amounts deposited in the said construction reserve
14 fund prior to the filing of the income tax return of such
15 common carrier for such taxable year, without limitation
16 except that the deduction allowed pursuant to this section
17 shall not exceed in any one year an amount equal to the
18 depreciation recorded in the operating expense accounts for
19 such year under the provisions of the uniform system of
20 accounts prescribed by the Interstate Commerce Commission.

21 “(4) In computing the gross income under section 61
22 (a) of the Internal Revenue Code of 1954, as amended, of
23 any common carrier subject to this Act there shall be in-
24 cluded all amounts withdrawn during the taxable year from
25 the said construction reserve fund for purposes other than

1 those specified in paragraph (1) of this section: *Provided*,
2 That any amount deposited in the reserve fund which shall
3 be permitted to remain in such fund for five years after hav-
4 ing been deposited therein shall be considered to have been
5 so withdrawn from such fund on the first day following the
6 expiration of such five-year period. Such amounts shall be
7 subject to tax at the rate or rates and shall be subject to
8 the provisions of the Internal Revenue Code of 1954, as
9 amended, applicable to the year in which such amounts were
10 deducted under paragraph (3) of this section (including
11 the interest provisions of such Code as amended, as if a tax
12 deficiency for such year, whether or not a tax deficiency
13 would exist for such year otherwise). For the purpose of
14 this section, any amounts expended or withdrawn from the
15 reserve fund shall be applied against amounts deposited
16 therein in order of the deposits.

17 “(5) The regulations prescribed by the Interstate Com-
18 merce Commission and the Secretary of the Treasury, pur-
19 suant to paragraph (1) hereof, shall provide that no amounts
20 may be withdrawn from the construction reserve fund ex-
21 cept (a) for the uses prescribed in paragraph (1) hereof
22 or (b) upon payment to the Secretary of the Treasury
23 of the tax deficiency arising thereon under paragraph (4)
24 hereof.

25 “(6) Amounts on deposit in a construction reserve fund

1 shall not be considered an accumulation of earnings and
2 profits for the purposes of part I, subchapter G, chapter I,
3 of the Internal Revenue Code of 1954, as amended.

4 “(7) The basis for determining gain or loss and for de-
5preciation, for the purposes of Federal taxes, of any property
6 constructed, reconstructed, reconditioned, or acquired by the
7 taxpayer, in whole or in part, out of the construction reserve
8 fund, shall be reduced by that portion of the deposits in the
9 fund expended in the construction, reconstruction, recondi-
10tioning, or acquisition of such property, or expended to
11retire debt incurred for such purposes after the effective date
12hereof: *Provided*, That no expenditures shall be made from
13such fund for such purposes in excess of the then adjusted
14basis of the property to which such indebtedness relates.

15 “(8) Qualifying expenditures under this section shall
16include only expenditures which are chargeable to the ac-
17counts prescribed and approved by the Interstate Commerce
18Commission to show the investment of a common carrier
19subject to this Act in property devoted to transportation
20service.”

21 SEC. 8. (a) Clause (6) of subsection (b) of section
22 203 of the Interstate Commerce Act, as amended, is amended
23 by striking out the semicolon at the end thereof and insert-
24ing in lieu thereof a colon and the following:

25 “*Provided*, That the words ‘property consisting of or-

1 dinary livestock, fish (including shell fish), or agricultural
2 (including horticultural) commodities (not including manu-
3 factured products thereof)' as used herein shall include only
4 those commodities shown as 'Exempt' in the 'Commodity
5 List' incorporated in ruling numbered 107, March 19, 1958,
6 Bureau of Motor Carriers, Interstate Commerce Commis-
7 sion: *Provided further, however,* That notwithstanding the
8 preceding proviso the words 'property consisting of ordinary
9 livestock, fish (including shell fish), or agricultural (includ-
10 ing horticultural) commodities (not including manufactured
11 products thereof)' shall not be deemed to include frozen
12 fruits, frozen berries or frozen vegetables, or property im-
13 ported from any foreign country;"

14 (b) Unless otherwise specifically indicated therein, the
15 holder of any certificate or permit heretofore issued by the
16 Interstate Commerce Commission, or hereafter so issued
17 pursuant to an application filed on or before the date on
18 which this section takes effect, authorizing the holder thereof
19 to engage as a common or contract carrier by motor vehicle
20 in the transportation in interstate or foreign commerce of
21 property made subject to the provisions of part II of the
22 Interstate Commerce Act by paragraph (a) of this section,
23 over any route or routes or within any territory, may without
24 making application under that Act engage, to the same
25 extent and subject to the same terms, conditions and limi-

1 tations, as a common or contract carrier by motor vehicle,
2 as the case may be, in the transportation of such property,
3 over such route or routes or within such territory, in inter-
4 state or foreign commerce.

5 (c) Subject to the provisions of section 210 of the
6 Interstate Commerce Act, if any person (or its predecessor
7 in interest) was in bona fide operation on January 1, 1958,
8 over any route or routes or within any territory, as a common
9 or contract carrier engaged in the transportation of property
10 by motor vehicle made subject to the provisions of part II
11 of that Act by paragraph (a) of this section, in interstate or
12 foreign commerce, and has so operated since that time (or
13 if engaged in furnishing seasonal service only, was in bona
14 fide operation on January 1, 1958, during the season
15 ordinarily covered by its operations and has so operated
16 since that time), except in either instance as to interruptions
17 of service over which such applicant or its predecessor in
18 interest had no control, the Interstate Commerce Commis-
19 sion shall without further proceedings issue a certificate or
20 permit, as the case may be, authorizing such operations if
21 application therefor is made to the said Commission as pro-
22 vided in part II of the Interstate Commerce Act and within
23 one hundred and twenty days after the date on which this
24 section takes effect. Pending the determination of any such
25 application, the continuance of such operation without a

1 certificate or permit shall be lawful. Any carrier which on
2 the date this section takes effect is engaged in an operation
3 of the character specified in the foregoing provisions of this
4 paragraph, but was not engaged in such operation on January
5 1, 1958, may under such regulations as the Interstate Com-
6 merce Commission shall prescribe, if application for a cer-
7 tificate or permit is made to the said Commission within one
8 hundred and twenty days after the date on which this section
9 takes effect, continue such operation without a certificate or
10 permit pending the determination of such application in
11 accordance with the provisions of part II of the Interstate
12 Commerce Act.

13 SEC. 9. Subsection (c) of section 203 of the Interstate
14 Commerce Act, as amended, is amended by striking out
15 the period at the end thereof and inserting in lieu thereof
16 the following: "nor shall any person in any other commer-
17 cial enterprise transport property by motor vehicle in inter-
18 state or foreign commerce unless such transportation is solely
19 within the scope and in furtherance of a primary business en-
20 terprise (other than transportation) of such person."

A BILL

To amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes.

By Mr. SMATHERS

MAY 8, 1958

Read twice and referred to the Committee on
Interstate and Foreign Commerce

12. HOUSING. The Housing Subcommittee ordered reported to the Banking and Currency Committee a clean bill embodying Housing Act amendments of 1958. p. D464
13. TRANSPORTATION. The Interstate and Foreign Commerce Committee ordered reported with amendments S. 3778, proposed Transportation Act of 1958. p. D464
14. LANDS. Received from GSA a proposed bill to repeal the act requiring grantors to furnish to the Government all requisite abstracts, official certifications, and evidences of title; to Public Works Committee. p. 8418
15. FARM PROGRAM. Sen. Talmadge inserted a speech by John A. Sibley, a Ga. banker, on "Future Trends in Agriculture and Forestry in the South." pp. 8436-8
16. RESEARCH. Sen. Wiley stated that electronic computers were creating a new revolution and urged their increased use in research. He inserted an article, "Electronic Brain Speeds Cow Testing," on the dairy herd improvement program in Wisc., and another on the use of computers in testing antibiotics. pp. 8452-4
17. RECLAMATION. Received from the Interior Department a report on certain conditions precedent to constructing the Santa Margarita project, Calif.; to the Interior and Insular Affairs Committee. p. 8418
18. FLOOD CONTROL. Received a petition from the mayor of West Covina, Calif., urging enactment of flood control legislation for work on the Walnut Creek system in Calif. p. 8419
19. LEGISLATIVE PROGRAM. S. 2447, to authorize research on the effect of insecticides on fish and wildlife was made the Senate's pending business. p. 8458

ITEMS IN APPENDIX

20. SMALL BUSINESS. Extension of remarks of Sen. Neuberger inserting a statement describing the importance of research and development as an aid to small business firms. pp. A4803-4
21. FARM PROGRAM. Sen. Talmadge inserted an editorial favoring his proposed five-point farm program. p. A4805
Extension of remarks of Sen. Neuberger inserting an editorial, "Spreading Farm Dollar," and stating that the editorial emphasizes a most illuminating study of farm purchasing power. pp. A4812-3
Rep. Davis inserted an article, "Farming Today For Tomorrow," describing the value of soil conservation programs.
Extension of remarks of Rep. Christopher criticizing the administration's farm program, stating that "the under-payment to American farmers for their services in producing more than 60 percent of all the new wealth generated in this country each year is the primary cause of the present recession," and inserting an article, "The President Speaks--Deals Farmers A Low Blow." pp. A4843-4
22. MARKETING. Rep. McCormack inserted an article describing the development and future opportunities in food marketing. pp. A4810-1
23. ELECTRIFICATION. Sen. Kefauver inserted various resolutions commending the TVA program. pp. A4813-4
Sen. Hoblitzell inserted an article, "TVA After 25 Years." pp. A4816-7

24. IRRIGATION. Rep. Horan inserted a story outlining the inaugural period as the Brewster unit of the Chief Joseph reclamation projects comes under water. pp. A4821-2
- Rep. Davis, Ga., inserted a statement of the chairman of Nation-Wide Committee of Industry, Agriculture and Labor on Import-Export Policy discussing the recent testimony of Secretary Dulles in support of extending the Reciprocal Trade Act. pp. A4852-54
26. TRANSPORTATION. Rep. Flood inserted an address by the president of the Delaware, Lackawanna & Western Railroad Co., discussing conditions in the transportation industry, and favoring the establishment of a Department of Transportation in the Federal Government. pp. A4836-38
27. WATER RESOURCES. Rep. Ullman inserted a letter by the chairman of the Idaho-Oregon-Washington Hells Canyon Assoc. favoring construction of the Hells Canyon dam. p. A4855
28. CORN. Rep. Knutson inserted a letter and resolution from the Minn. Federation of Women's Clubs favoring the adoption of the corn tassel as our national flower. pp. A4855-56

BILLS INTRODUCED

29. MINERALS. S. 3891, by Sen. Murray, to strengthen the acreage limitation requirements of section 27 of the Mineral Leasing Act of 1920; to Interior and Insular Affairs Committee.
- S. 3892, by Sen. Murray (by request), to stabilize production of copper, lead, zinc, acid-grade fluorspar and tungsten from domestic mines by providing for stabilization payments to producers of ores or concentrates of these commodities; to Interior and Insular Affairs Committee. Remarks of author. pp. 8400-2
30. LANDS. S. 3895, by Sen. Watkins, to authorize the Secretary of the Interior to convey to the Metropolitan Water District of Salt Lake City, Utah, all right, title, and interest of the U. S. in certain lands located in Salt Lake County, Utah; to Interior and Insular Affairs Committee. Remarks of author. p. 8422
31. TRADE AGREEMENTS. H. R. 12676, by Rep. Simpson, Pa., H. R. 12680, by Rep. Dorn, S. C., H. R. 12683, by Rep. Bailey, H. R. 12686, by Rep. Davis, Ga., and H. R. 12688, by Rep. Moore, to extend for 2 years the authority of the President to enter into trade agreements under section 350 of the Tariff Act of 1930, as amended; to Ways and Means Committee.
32. TRANSPORTATION. H. R. 12677, by Rep. Boyle, and H. R. 12681, by Rep. Gray, to amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system; to Interstate and Foreign Commerce Committee.
33. HOLIDAY. H. R. 12684, by Rep. Byrne, Ill., declaring October 12 to be a legal holiday; to Judiciary Committee.

PRINTED HEARINGS RECEIVED IN THIS OFFICE

34. FEDERAL-STATE RELATIONS. Federal-State-local relations, State and local officials (Part 1--Boston, Mass., and New York, N. Y.) H. Government Operations.
35. TRAVEL; PERSONNEL. H. R. 11133 and S. 1903, to amend the Administrative Expenses Act, as amended, to provide for the payment of travel and transportation

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued June 4, 1958
For actions of June 3, 1958
85th-2d, No. 38

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HIGHLIGHTS: Senate committee reported omnibus transportation bill. Senate debated mutual security bill. Sen. Humphrey discussed farm prices. House subcommittee ordered reported proposals for dairy program and to make various amendments regarding ASC committees. Sen. Wiley introduced and discussed bill to authorize HEW to aid States in administration of surplus food program.

SENATE

1. TRANSPORTATION. The Interstate and Foreign Commerce Committee reported with amendments S. 3778, to amend the Interstate Commerce Act so as to strengthen and improve the national transportation system (S. Rept. 1647). pp. 8929-30
Sen. Smathers and others spoke in favor of repeal of the transportation tax. pp. 8941-50
2. FOREIGN AID. Continued debate on H. R. 12181, the mutual security authorization bill. pp. 8931, 8934, 8941, 8950-7, 8961
3. FARM PRICES. Sen. Humphrey analyzed current farm prices and stated that they compare unfavorably with the 1952 level. p. 8938
4. PROPERTY; INSPECTION SERVICE. The Government Operations Committee ordered reported S. 3142, to extend authority to lease out Federal building sites until needed for construction purposes; S. 3873, to amend Sec. 201 of the Federal Property and Administrative Services Act so as to authorize the interchange of inspection services between executive agencies; and H. J. Res. 427, to grant to Kerr County, Tex., the Federal reversionary interest in a tract which had been made available for 4-H club use. p. D491
5. ALASKA STATEHOOD. Sen. Allott inserted a speech by Secretary Seaton favoring Alaska statehood. pp. 8938-40
Sen. Neuberger inserted a letter from the Wildlife Management Institute favoring protection of Alaska wildlife resources in connection with statehood

and a St. Louis Post-Dispatch editorial favoring Alaska statehood. pp. 8960-1

6. ELECTRIFICATION. Sen. Dworshak inserted a newspaper article to clarify the position of Oregon Republicans regarding hydroelectric power resources. p. 8937

HOUSE

7. DAIRY INDUSTRY. The Dairy Subcommittee ordered reported to the Agriculture Committee a draft of proposed legislation on dairy products for inclusion in an omnibus farm bill. p. D492
8. ASC COMMITTEES. A subcommittee ordered reported to the Agriculture Committee with amendments H. R. 12669, to make various amendments to legislation regarding ASC committees. p. D492
9. DEFENSE APPROPRIATION BILL. Began debate on this bill, H. R. 12738. pp. 8981-9019
10. FOREST SERVICE. Received from the Comptroller General an audit report on activities in Regions 3, 4, and 8 of the Forest Service for June 1957. p. 9030
11. FOREIGN TRADE. Rep. Beamer urged Congress to reassert itself and restore its former position in formulating foreign trade policies. p. 8974
Rep. Bailey inserted a legal firm's statement that it would be constitutional to provide for congressional review of Presidential actions on escape-clause recommendations under the Trade Agreements Act. p. 9020
12. WATER CONSERVATION. Rep. Bow commended the Muskingum Watershed Conservancy District. pp. 9019-20

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13. WILDERNESS AREAS. Sen. Humphrey inserted excerpts from an address by the N. Y. Commissioner of Conservation favoring protection of wilderness areas. pp. A5031-2
14. FOREIGN AID. Extension of remarks of Sen. Hickenlooper including an article, "Foreign Aid Vital to United States Security." pp. A5033-4
15. ACREAGE ALLOTMENTS. Rep. Hemphill inserted an editorial stating that farm production controls may not be needed by 1975. p. A5041
16. FOREIGN TRADE. Rep. Porter inserted his speech favoring continuation of the Trade Agreements Act and discussing plywood imports. pp. A5045-7
17. ORANGE PRICES. Extension of remarks of Rep. Vanik stating that increases in orange-juice prices are unjustified and including an article on this matter. p. A5054

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18. SURPLUS FOODS. S. 3930, by Sen. Wiley, to amend section 416 of the Agricultural Act of 1949, as amended; to Agriculture and Forestry Committee. Remarks of author. p. 8930
19. EDUCATION. S. 3932, by Sen. Yarborough, to provide for Federal assistance for the construction and expansion of public community junior colleges; to Labor and Welfare Committee. Remarks of author. p. 8961

TRANSPORTATION ACT OF 1958

REPORT

OF THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

ON

S. 3778

TOGETHER WITH

INDIVIDUAL VIEWS



JUNE 3, 1958.—Ordered to be printed

UNITED STATES
GOVERNMENT PRINTING OFFICE

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SUBCOMMITTEE ON SURFACE TRANSPORTATION

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TRANSPORTATION ACT OF 1958

JUNE 3, 1958.—Ordered to be printed

Mr. SMATHERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

together with

INDIVIDUAL VIEWS

[To accompany S. 3778]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 3778) to amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

I. INTRODUCTION

The purpose of this bill is to amend the Interstate Commerce Act, as amended, in order to provide necessary and desirable changes to enable strengthening of our Nation's transportation system, in the public interest.

This bill is the outgrowth of extensive hearings held by the Surface Transportation Subcommittee on the deteriorating position of American railroads. Those hearings were begun in January 1958 and lasted for 3½ months. For 2 days in May the full committee held additional hearings solely on the subcommittee's recommendation for amendment to the rule of ratemaking found in part I of the Interstate Commerce Act. Part I applies mainly to the regulation of railroads.

II. ADOPTION OF THE SUBCOMMITTEE REPORT, WITH AMENDMENTS,
BY THE FULL COMMITTEE

The report of the subcommittee entitled "Problems of the Railroads," committee print dated April 30, 1958, with certain technical amendments, is printed at the end of this report. This subcommittee report is hereby adopted as the report of the full committee on S. 3778,

subject to the changes agreed to by the full committee discussed below and reflected as amendments to S. 3778 as reported to the Senate.

III. DISCUSSION OF CHANGES IN THE SUBCOMMITTEE REPORT MADE BY THE FULL COMMITTEE

Changes were made, as follows, in three of the recommendations contained in the subcommittee report:

(1) *Subcommittee recommendation No. 3, "Competitive Ratemaking"*

Upon consideration of the amendment recommended by the subcommittee to section 15a of the Interstate Commerce Act, designated the rule of ratemaking, the full committee agreed to further hearings on this recommendation, which were held May 20-21, 1958.

Representatives of all interested modes of transportation, railway labor, shippers, and the Interstate Commerce Commission were present and offered testimony at the hearing. Upon further consideration, the committee, in the light of this testimony, concluded that an amendment to the rule of ratemaking should apply to the several modes of transportation subject to parts I, II, III, and IV of the Interstate Commerce Act and should be constituted as a new subparagraph (3) to section 15a of the act to read as follows:

In a proceeding involving competition between carriers of different modes of transportation subject to this Act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this Act.

In making this amendment to section 5 of S. 3778, the committee agrees with and wishes to emphasize the import of the following excerpt from the subcommittee report:

The subject of competitive ratemaking as between the different forms of transportation was discussed at length during the hearings, the railroads urging enactment of legislation that would restrict substantially the authority of the Interstate Commerce Commission in this field. The subcommittee is not convinced that the record before it justifies approval of the railroads' proposal.

It is the policy of this subcommittee, and it is believed to be the policy of the Congress, that each form of transportation should have opportunity to make rates reflecting the different inherent advantages each has to offer so that in every case the public may exercise its choice, cost and service both considered, in the light of the particular transportation task to be performed. The subcommittee believes and the national transportation policy is clear, however, that such ratemaking should be regulated by the Commission to prevent unfair destructive practices on the part of a carrier or group of carriers.

It nevertheless appears that the Interstate Commerce Commission has not been consistent in the past in allowing one or another of the several modes of transportation to assert their inherent advantages in the making of rates. The subcommittee recommends, therefore, that the Commission consistently follow the principle of allowing each mode of transportation to assert its inherent advantages, whether they be of service or of cost. In 1945 in *New Automobiles in Interstate Commerce* (259 ICC 475), the subcommittee believes that the Commission properly construed the intent of Congress in this respect when it said:

"As Congress enacted separately stated rate-making rules for each transport agency, it obviously intended that the rates of each such agency should be determined by us in each case according to the facts and circumstances attending the movement of the traffic by that agency. In other words, there appears no warrant for believing that rail rates, for example, should be held up to a particular level to preserve a motor-rate structure, or vice versa (259 ICC at p. 538)."

The subcommittee wishes to affirm the interpretation of the Commission given in the Automobile case epitomized in the words quoted above. The subcommittee therefore believes it necessary to amend the act only so as, in effect, to admonish the Commission to be consistent in following the policy enunciated in the Automobile case thus assuring reasonable freedom in the making of competitive rates. * * *

The subcommittee anticipates that the broad effect of this amendment will be to encourage competition between the different modes of transportation to the benefit of the shipping public. * * *

The subcommittee further notes that the Supreme Court in *Schaeffer Transportation Co. et al. v. U. S.* (No. 20, October term, decided December 9, 1957), — U. S. —, 78 S. Ct. 173, 178, in reversing the Interstate Commerce Commission for denying a motor carrier application because rail service was "reasonably adequate," said: "To reject a motor carrier's application on the bare conclusion that existing rail service can move the available traffic, without regard to the inherent advantages of the proposed service, would give one mode of transportation unwarranted protection from competition from others."

The purpose of this amendment is to produce consistency in the interpretation of the national transportation policy.

The committee wishes further to emphasize that the amendment in regard to section 5 amending section 15a of the act as framed by the committee is designed to encourage competition in transportation by allowing each form of transportation subject to the Interstate Commerce Act full opportunity to make rates reflecting the inherent advantages each has to offer, with such ratemaking being regulated by the Interstate Commerce Commission, however, to prevent "unfair or destructive competitive practices" as contemplated by the declaration of national transportation policy. Under the committee amendment the principal emphasis, but not the exclusive emphasis, in a competitive ratemaking proceeding involving different modes of

transportation will be on the conditions surrounding the movement of the traffic by the mode to which the rate applies.

(2) *Subcommittee Recommendation No. 6, "Agricultural Commodities Exemption"*

The committee agrees with the subcommittee that the agricultural exemption contained in section 203 (b) (6) of the Interstate Commerce Act should be revised.

The committee favors a "freeze" of the present status of the exemption recommended by the subcommittee. The committee further agrees that the "freeze" should be on the basis of ruling No. 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, with the exception recommended by the subcommittee that the transportation of frozen fruits, frozen berries, and frozen vegetables be made subject to ICC regulation. Since ruling No. 107 does not list the items, such as fresh fruits and vegetables, about which there has been no controversy, the subcommittee language requires revision to reflect this condition.

Further, the committee was in agreement that the subcommittee's language that "imported agricultural products," as distinguished from those produced domestically, be subjected to economic regulation should be eliminated. The problems engendered by commingling such imported products with domestic agricultural products, making the whole subject to regulation, would, in the committee's opinion, more than offset any gains to be made by subjecting imported agricultural products to regulation by the Commission. A change in the subcommittee's recommendation is made accordingly.

Finally, the committee is of the opinion that the seafood industry is due an additional measure of relief from regulation in the transportation of some of its products under section 203 (b) (6). The amendment suggested is not intended to include within the exemption fish and shellfish which have been treated for preserving, such as canned, smoked, salted, pickled, spiced, corned, or kippered products.

The committee's changes are reflected in the following:

Clause (6) of subsection (b) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a colon and the following:

"Provided, That the words 'property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)' as used herein shall include property shown as 'Exempt' in the 'Commodity List' incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as 'Not exempt': Provided further, however, That notwithstanding the preceding proviso the words 'property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)' shall not be deemed to include frozen fruits, frozen berries, or frozen vegetables and shall be deemed to include cooked or uncooked (including breaded) fish or shellfish, when frozen or fresh."

(3) *Subcommittee Recommendation No. 7, "Economic Regulation of Commercial Transportation"*

The committee is in thorough accord with the subcommittee recommendation that the "primary business test" contained in *Brooks Transportation Co. v. U. S.* (340 U. S. 925 (1951)) should be written into the Interstate Commerce Act to effect a prohibition that no person in any commercial enterprise other than a duly authorized or specifically exempt for-hire transportation business shall transport property by motor vehicle in interstate or foreign commerce unless such transportation is, in the subcommittee's words, "within the scope and in furtherance of a primary business enterprise (other than transportation) of such person." Such an amendment, it is believed, would serve to correct most of the abuses that have arisen in the name of private carriage and yet would not in any way jeopardize or interfere with the operations of private carriers who provide transportation service—even if a charge is made—as an integral part of their primary business function.

The committee believes, however, that the language of the following proposed amendment to the Interstate Commerce Act more accurately reflects the holding in the Brooks case than that proposed by the subcommittee:

Subsection (c) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "nor shall any person in any other commercial enterprise transport property by motor vehicle in interstate or foreign commerce unless such transportation is incidental to, and in furtherance of, a primary business enterprise (other than transportation) of such person."

IV. TRANSPORTATION STUDY

It should be noted that the full committee adopted Senate Resolution 303, as recommended by the subcommittee, to provide for a study of basic long-range transportation problems in the public interest.

V. AGENCY COMMENTS

Comments were available from three agencies at the time this report was written. The Comptroller General of the United States stated that while the General Accounting Office is not in a position to make any definite recommendations on the remedial proposals contained in S. 3778, it is not anticipated that enactment of the bill would have any adverse effect upon the interests of the United States as a shipper or upon GAO operations in the audit of transportation disbursements.

The Civil Aeronautics Board commented that inasmuch as the legislation is limited to amending the Interstate Commerce Act and relates solely to surface transportation, the Board has no comment to make on the bill.

The Department of Agriculture offered comments on section 8 of S. 3778 as follows: (1) The Department objects to eliminating frozen fruits, frozen berries, and frozen vegetables from the exemption from

economic regulation by the ICC now afforded these products; (2) the Department objects to subjecting imported agricultural products to economic regulation by the ICC; and (3) the Department raises questions concerning interpretations that may arise because of the technical language used in the bill to incorporate into the Interstate Commerce Act ruling 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission.

It should be noted that amendments have been made in S. 3778 as reported by the committee that take into account the comments of the Department of Agriculture numbered (2) and (3) above.

REPORT OF THE SUBCOMMITTEE ON SURFACE TRANSPORTATION

APRIL 30, 1958

PROBLEMS OF THE RAILROADS

I. INTRODUCTION

The Surface Transportation Subcommittee is concerned generally with the welfare of the Nation's transportation system and particularly with those carriers performing surface transportation, motor carriers, freight forwarders, railroads, and domestic water carriers.

The subcommittee believes that all forms of transportation must be kept healthy and vigorous if the economy of the United States is to be adequately served and if the Nation's defense is to be properly maintained.

For generations the railroads have been the bedrock of our Nation's transportation system. It was the railroads that pioneered the development and growth of the East, the West, the North, and the South. Their history is closely linked with the economic progress of our Nation. It was only a few years ago that the railroads were the biggest business of the Nation. They ranked first as a purchaser of goods and services. Steel mills once counted them as their best single customer as did the fuel oil sellers, the lumbermen, the coal-mine operators, and many others.

During times of crisis for our Nation the railroads have met the challenge. During World War II the railroads transported more than 90 percent of all military freight traffic and 97 percent of organized military passenger movements. Thus the railroads were, and are, a vital part of this Nation's security.

Because of the essential part the railroads play in our whole transportation system, it was a cause of great concern to your subcommittee when we observed the rapid deterioration of the railroad position in the fall of 1957.

For example, the carloadings of class I railroads for the week ending November 9, 1957, declined 12.6 percent from the same period of 1955. Figures for September 1957, showed net income to be \$65 million as compared to \$80 million for September 1955, a decrease in excess of 18 percent. Another discouraging sign was the decrease in railroad net working capital from approximately \$880 million in September 1955 to approximately \$526 million in September 1957; it is considered that \$600 million is the minimum safe net working capital necessary for railroads.

It was clear from these and other similar figures that not only were the railroads being adversely affected by the business recession which was then appearing, but that, in fact, the sickness of the railroads was contributing greatly to the deepening recession of the Nation.

As a result of these observations, it was determined that the Subcommittee on Surface Transportation should hold hearings and look into the problems of the railroads in relation to our national transportation system and the recession. Consequently, on November 22, 1957, hearings were announced to begin on January 13, 1958.

In announcing the hearings, three main areas were suggested as topics for attention. First, matters on which the railroads could help themselves; second, desirable changes in ICC policy and practices, and, third, new legislation necessary to revitalize the railroad industry and maintain it as an efficient part of our national transportation system.

The hearings proceeded over an 11-week period during which 103 witnesses were heard. Witnesses appeared on behalf of railroads, motor carriers, air carriers, water carriers, representatives of the State and Federal regulatory commissions (including the Interstate Commerce Commission), the Defense Department and the Agriculture Department. There also appeared representatives of shippers, agricultural associations, and labor organizations, as well as experts on transportation matters from leading educational institutions, economists, analysts, financial experts, and others. The hearings were concluded on April 3, 1958.

II. GENERAL COMMENTS

The testimony substantiated the subcommittee's concern about the deteriorating railroad situation. As a matter of fact, the uncontrollable testimony revealed that the decline in the railroad position was occurring at a greater rate than the decline in the Nation's economy.

It was obvious from the testimony that the railroads no longer are a monopoly in the transportation field. This was dramatically illustrated by the fact that the railroad's share of freight traffic had declined from 74.9 percent of the total intercity ton-miles in 1929 to 48.2 percent in 1956.

Likewise, the railroads' share of passenger miles declined from 70.7 percent of the total for commercial carriers in 1929 to 34.9 percent in 1956. The testimony revealed that railroad passenger miles in the first 2 months of 1958 declined at a faster rate than comparable months in 1957.

The decline in railroad employment indicates the general decline of the railroad position. In 1923 railroad employees numbered 1,857,674. This declined to 861,928, a loss of about 1 million, by February 1958. Unemployment in the industry is accelerating rapidly. There has been a decrease of 348,182 jobs from March 1953 to March 1958; an average decrease per month of 5,800 employees for the past 60 months.

The railroads as a whole are in a poor financial position. Net working capital as shown by the railroads has declined as follows:

Dec. 31, 1945-----	\$1, 643, 100, 000
Dec. 31, 1955-----	938, 100, 000
Dec. 31, 1956-----	683, 600, 000
Dec. 31, 1957-----	555, 300, 000
Jan. 31, 1958-----	396, 500, 000

This is particularly significant when it is pointed out that the total cash expenses of the railroads (wages, fuel and materials, rents and taxes) are approximately \$750 million per month. The rate of return on net investment in the railroad industry has moved downward from 4.22 percent in 1955, to 3.95 percent in 1956, and down to 3.35 percent in 1957.

Freight earloadings for class I railroads declined from 3,446,330 cars in March 1957 to 2,702,066 cars in March 1958 a decline of 21.6 percent.

According to the statistics of the First National City Bank of New York, for the calendar year 1956, the rate of return on net assets of the 73 leading corporations in the industrial group revealed that the class I railroads were third from the bottom for that year. Many other class I railroads were below the average figure.

The largest rail carrier, the Pennsylvania Railroad, returned only 2.9 percent in 1956 and last year this small return was reduced by over 50 percent, giving the Pennsylvania Railroad a return of only 1.4 percent in 1957. During the first 2 months of 1958 this carrier lost more than \$11 million.

The aggregate net income shown by all class I railroads for the first 2 months of 1957 was \$91.4 million. Their net income for the corresponding 2 months of 1958 is down to \$6 million.

Comparing February of 1957 with February of 1958: In February, 1957, the class I railroads had a \$47.5 million profit, in February, 1958, the class I railroads of this country had a \$10.7 million loss.

The subcommittee realizes that the railroads' financial condition results, in a large measure, from the general passenger deficit of about \$700 million in 1956 and similar large amounts in recent years. The railroads are attempting to eliminate a great deal of this unprofitable passenger service. The subcommittee believes, however, that the railroads should retain a certain amount of passenger service, whether profitable or not, as part of the railroads' obligation to serve the public and to provide for the national defense. This subject of declining railroad passenger service is recommended for further study.

Because of their financial plight, the railroads find it extremely difficult to borrow money other than by the issuance of equipment obligations. The situation of the eastern railroads is particularly serious. Eastern railroads are in worse financial straits than the southern and western railroads because they operate in a densely populated area of high costs and severe competition from other modes of transportation. The presence of the large volume of commuter traffic, carried at a loss, also contributes to the poor financial condition of the eastern railroads. The southern and western railroads are not in as serious condition as those in the East because operating conditions are more favorable in the South and West. However, the problems of the southern and western railroads are mounting and following the pattern of the railroads in the East.

III. REASONS FOR THE RAILROAD DECLINE

From the testimony, the subcommittee has concluded that the general decline is due to a number of reasons, some of which we will

mention here. One reason is the development of newer methods of transportation that offer intense competition to the railroads. These newer methods include the tremendous number of private cars on the highways, the development of airplanes, and the building of modern highways on which move a large number of buses and trucks. All of these modes of transportation cut into the traffic that could be hauled by the railroads.

A second reason for the general decline of the railroads is the Government assistance offered to the railroads' competitors. This includes the building of highways and airports, the provision of toll-free waterways, and other facilities.

A third reason for the decline of the railroads is overregulation. The Federal Government, through the Interstate Commerce Commission, and the vast majority of the 48 States, through State regulatory agencies, supervise and dictate to the railroads, usually under laws and procedures that are ancient and outmoded.

A fourth reason is the attitude of some railroad managements. There has been a failure to recognize changing conditions, times and tastes. A failure to compete aggressively for business by use of modernized equipment, by adjustments in plant and financial structures, as well as failure to adjust rates to compete effectively for traffic.

IV. HELP NEEDED BY THE RAILROADS

From the facts adduced at the hearings your subcommittee has concluded that the railroads are in need of help, some immediate and some long range, some by the industry itself, some by Government agencies, some by labor organizations, and some by the Congress.

COMMUTER SERVICE AND LOCAL AND STATE TAXES

The subcommittee would like to comment on problems in two areas in which the railroads' difficulties are attributable to factors principally under the control of State and local governments and their agencies. One is the burden imposed on the railroads by commuter service in large metropolitan areas.

The subcommittee heard much testimony with respect to the problem of continuing commuter service by railroads. It was clear from the testimony that the railroads were operating these services at enormous losses. This is the result of many factors which we will not go into here. It may be said that basically the commuter service problem is a local one having both social and economic implications. However, it is also a matter of deep concern to the Federal Government because of the impact that losing commuter service can have on the ability of an interstate rail carrier to render its interstate service. That this is so, is clearly evident from the fact that there are several large carriers in the East which are faced with the imminent threat of bankruptcy primarily because of the heavy losses from rendering commuter and other local passenger service. Because of the burden that these losing intrastate services are imposing on interstate commerce, the subcommittee feels that the Federal Government can no longer stand aside to the extent it has in the past. The Interstate Commerce Commission already has authority to require increases in intrastate rates where there is an

unjust discrimination or burden on interstate commerce, but in many cases the answer to the losses from commuter services does not lie in merely increasing fares. It is evident that fares which would theoretically return a profit to the railroads would generally result in charges substantially greater than commuters are accustomed to paying and, in some instances, prohibitive charges. Accordingly, the solution is not readily apparent. Because the solutions which may be found for this problem are essentially local, the subcommittee deems it desirable to leave to the local government agencies involved the job of seeking specifically tailored solutions to their particular problem.

Solutions to this problem cannot be longer delayed and it is believed that the clarification of the Interstate Commerce Commission's authority over intrastate rates, together with the new authority conferred upon the Commission over service as subsequently explained in this report, will lead to the prompt finding of appropriate solutions by local authorities.

The second matter on which the subcommittee is constrained to comment is the amount of State and local taxes paid by the railroads. Representatives of the railroads testified that local and State taxes borne by the rail lines are disproportionately high and bear no relationship to the earnings of the properties and, therefore, constitute an unfair burden on their operations. The subcommittee suggests that State and local governments reexamine taxes now borne by the railroads for the purpose of determining and correcting inequitable tax situations that exist.

The subcommittee further suggests that if communities and States take action to allow reduced taxes for the railroads in order to maintain railroad commuter service, the Federal Government should likewise give a proportionate remittance of Federal income taxes to allow the amount of such local and State tax reductions to be retained by the railroads.

A. Help by the industry

The railroad industry has not, in the subcommittee's opinion, been sufficiently interested in self-help in such matters as consolidations and mergers of railroads; joint use of facilities in order to eliminate waste, such as multiple terminals and yards that require expensive interchange operations; reduction of duplications in freight and passenger services by pooling and joint operations; abandonment or consolidation of nonpaying branch and secondary lines; abolishing of unnecessarily circuitous routes for freight movements; improved handling of less-than-carload traffic; coordination of transportation services and facilities by establishment of through routes and joint rates with other forms of transportation; and modernization of the freight-rate structure, including revision of below-cost freight rates to levels that cover cost and yield some margin of profit as well as adjustment of rates excessively above cost to attract traffic and yield more revenue.

B. Help by railroad labor

The subcommittee wishes to commend railroad labor on the aggressive spirit that it shows in approaching its problems but points out that there should be reappraisal of the entire railroad labor

situation in the light of the present plight of the railroads. This is necessary because the number and kind of jobs held by the membership of the railroad labor unions is inextricably intertwined with the economic welfare of the railroad industry. The problems of the two groups are mutual problems.

The brotherhoods should realize that if the railroads should go under, the Federal Government is not going to take over uneconomic railroads and continue to operate them in an uneconomic fashion. If bankruptcy results in Government operation, it is clear that there will be fewer jobs than at present in the railroad industry. The subcommittee urges that railroad labor cooperate in proceedings designed to strengthen the economic position of the railroads.

C. Help by the Interstate Commerce Commission

Help can be given by the Interstate Commerce Commission without additional legislation. The subcommittee has noted with approval that in recent years the ICC has improved the speed of its administration of the regulatory process. The subcommittee urges that there be continued effort for improvement in the handling of regulatory proceedings. The subcommittee likewise urges that the ICC continue to take into account current competitive factors in the adjudication of rate cases.

The subcommittee, from its observation of the Commission, is not satisfied that the Commission is devoting its efforts to the most fruitful areas of regulation. The Commission should earnestly examine the Interstate Commerce Act, and related acts, and come forward with legislative recommendations which will reduce its sphere of action to matters which fundamentally affect transportation. There are some activities now required of the Commission which are of no great consequence but which take time and effort. This attention could be devoted to matters of greater significance. These matters of importance are now delayed because of preoccupation with relatively minor problems.

Over a period of many years regulatory commissions, like individuals dealing with controversial issues, tend to form habits of belaboring relatively unimportant details involving form rather than substance, while procrastinating on coming to grips with important policy matters that involve serious matters of public interest.

The subcommittee suggests the need for reexamination and revision of the objectives of the statutes under which the Commission operates. For instance, under the various parts of the Interstate Commerce Act, the Commission, in the exercise of its power to prescribe just and reasonable rates, is charged with giving due consideration among other factors, to the need of revenues sufficient to enable the carriers "under honest, economical and efficient management" to provide railroad transportation service. It is doubtful that the Commission itself would assert that it has used its powers under this provision of law to the full extent to protect the public interest.

Although it is not directly related to the problems of the railroads, another example of the Commission's performance that concerns the subcommittee arises because no definite plan was prescribed in advance concerning the nature of the territory to be served by motor carriers following their regulation in 1935. As an outgrowth of grandfather certificates granted pursuant to this legislation, there are many kinds,

types and descriptions of certificates and operating rights, many of them restrictive and uneconomic. Where such operations prevent full loading and return loads, regulation promotes waste.

When public convenience and necessity is narrowly construed, as it was by the ICC in granting these grandfather rights, common carriers, both regular and irregular route, are permitted to transport only specific commodities. The commodity descriptions in carrier certificates have little uniformity, are confusing and instigate protracted proceedings on interpretation of the language. Sometimes they are limited to intended use, such as, "commodities to be used in a drug-store," or "grocery store," causing innocent as well as deliberate violations. Many motor carriers have accumulated certificates, as many as 200, piece by piece, some of which cover varying commodities and run into overlapping territories. In such instances local terminal managers themselves find difficulty in interpreting and complying with certificated authority. Loose compliance results. The Commission and its staff spends a disproportionate amount of time struggling with the details of this situation.

A final example of an area in which the Commission could help lies in the area of rate relationships. As has been confirmed by the statements made in the recent hearings, the Commission appears to be losing control over rate relationships. When carriers are permitted to meet competition by other carriers or by private carriage at limited points without reference to the rates at other points, it legalizes the disturbance of rate relationships to the detriment of shippers.

When a rate is suspended and made subject to investigation, a decision generally cannot be reached within the 7-month suspension period provided by law. This rate action may involve a single rate covering relatively unimportant movements or rates involving a movement of great economic impact. Each receives the same "due process" treatment and formal consideration. If the rate is found to be unlawful, it is ordered canceled. In the meantime, the rate may have gone into effect automatically because the 7-month suspension period has expired. If it is ordered canceled, a rate situation is disrupted which has been in effect for a considerable period of time and to which the parties and competitors have adjusted themselves in the meantime. Yet the Commission will often base its decision on a record which may be 2 or more years old and not representative of current conditions. In fact, the shipper may have resorted to private transportation or gone out of business since the rate was first proposed.

If rates are attacked by complaint, the rate is already in effect and the shipper may continue paying that rate and suffering the economic consequences for years before question of the lawfulness of the rate is actually decided.

The Commission might help the carriers, and shippers as well, by improving its performance in this area.

D. Help by the Congress

This assistance can be provided by a number of amendments to the Interstate Commerce Act:

(1) To establish a plan of guaranteed loans under the administration of the Interstate Commerce Commission, to aid temporarily in the financing of railroads, subject to the Interstate Commerce Act that

are unable to obtain needed funds upon reasonable terms through ordinary commercial channels;

(2) To provide for the establishment by common carriers subject to the Interstate Commerce Act of "construction reserve" funds as a means of obtaining tax deferrals to stimulate investment in equipment and other necessary transportation facilities;

(3) To amend the Interstate Commerce Act, section 15 (a), by adding a new subparagraph 3 to read as follows:

In a proceeding involving competition with another mode of transportation, the Commission, in determining whether a rail rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by railroad and not by such other mode.

(4) To make more effective those provisions of the Interstate Commerce Act enabling the Interstate Commerce Commission to remove discrimination against interstate or foreign commerce found to result from intrastate rates;

(5) To vest the Interstate Commerce Commission with authority to authorize, in proper cases, the discontinuance, curtailment or consolidation of unprofitable railroad services and facilities burdening interstate commerce;

(6) To limit the scope and application of the agricultural commodities clause under which motor vehicles engaged in the transportation of certain commodities are exempt from economic regulation under the Interstate Commerce Act and to redefine the exemption to bring under economic regulation frozen fruits and vegetables and imported agricultural commodities; and

(7) To make it clear that all commercial transportation of property by motor vehicle in interstate or foreign commerce, except private carriage and transportation otherwise specifically exempt, is subject to regulation.

(8) To provide for a transportation policy study group of three qualified transportation experts to study important matters of transportation policy and report thereon within 18 months.

V. RECOMMENDATIONS NOT WITHIN JURISDICTION OF THIS SUBCOMMITTEE

Because of the jurisdictional limitations of the various congressional committees, there are some proposals we submit to the appropriate committees with recommendations for action.

(1) The Senate Finance Committee should recommend repeal of the Federal excise taxes of 10 percent on passenger transportation charges and 3 percent on freight transportation charges.

(2) The subcommittee also urges that the Senate Finance Committee give favorable consideration to the railroads' proposal that legislation be enacted providing that, at the election of the taxpayer, the maximum useful life of depreciable railroad property may be considered 20 years for tax purposes.

(3) The Senate Post Office and Civil Service Committee should take action to modernize legislation applying to those forms of transportation necessary for carrying United States mail. The legislation should provide equitable treatment for all such modes of transporta-

tion, in regard both to opportunity to obtain the traffic and payment for service performed.

VI. DISCUSSION OF SUBCOMMITTEE'S LEGISLATIVE PROPOSALS

There follows explanation and discussion of the subcommittee's several recommendations for immediate legislative action noted above.

1. GUARANTEED LOANS FOR RAILROADS

As has been emphasized earlier in this report the economic position of the railroads in the country as a whole is an unfavorable one, and the position of some of the railroads primarily located in the East is an extremely serious one. Some of those in the most precarious financial position are our largest railroads in point of employees, wages, purchases, and track miles. Some of them have millions of dollars of deferred maintenance, millions of dollars owed in unpaid loans and State taxes, and a few of them have so little operating capital remaining that there is considerable likelihood of their being unable to meet their payrolls in the ensuing months. Heretofore these railroads have been strong economic factors in the areas in which they operate but today their economic condition is such that they no longer have sufficient credit standing to borrow money through the ordinary commercial channels. Bankruptcy is a likely prospect for several of them if present conditions remain unchanged. In your subcommittee's opinion such a failure on the part of any one or more of them would not only result in the hardship of loss of jobs, service, and payrolls to those persons directly involved, but any such failure would adversely affect our entire economy.

Thus the subcommittee proposes that in keeping with the procedures established under the housing program, merchant marine programs, feeder airline programs, and others, a program of Federal guaranteed loans be provided for the railroads subject to the Interstate Commerce Act.

Your subcommittee recommends that the Federal Government guarantee loans made by private commercial institutions, including unpaid interest on such loans, in an aggregate amount not to exceed \$700 million.

We propose that such a guaranteed loan program be set up under the direction of the Interstate Commerce Commission. The requirements for a Government guaranty are similar to those that were applicable for a direct loan from the Treasury under section 210 of the Transportation Act of 1920.

The principal requirements for authorizing the guaranty of a loan by the Government are findings by the Commission that:

(a) The proposed loan is necessary or appropriate to effectuate the purposes for which loans eligible for guaranty are authorized;

(b) The applicant is unable to obtain the needed funds from private sources on reasonable terms without a guaranty of the loan by the Government;

(c) Prospective earnings of the applicant carrier are such that there is reasonable assurance of repayment of the loan; and

(d) The applicant carrier is not in need of reorganization of its capital structure.

Such guaranties shall be made for loans for the following:

Funds to finance or refinance the acquisition or construction of equipment and other additions or betterments for use in transportation service; or to provide funds for operating expenses, working capital, and interest on existing obligations.

Guaranteed loans for operating expenses and interest on existing obligations are limited to \$150 million.

Other important features of the proposal include provisions that:

The Interstate Commerce Commission shall prescribe the security, if any, that is to be required; the term of a loan eligible for guaranty shall not exceed 15 years; no dividends shall be paid by a carrier so long as any loan guaranteed by the Government under this provision is outstanding; the authority to guarantee loans shall terminate December 31, 1960, unless further extended by the Congress; the Commission would be empowered to enter into guaranty agreements with trustees under a trust indenture or agreement for the benefit of the holders of any securities issued thereunder; the Secretary of the Treasury is delegated responsibility for any payments that may become necessary as the consequence of any guaranty; and the Attorney General shall be given the duty of protecting the interests of the United States as a creditor in the event payment under a guaranty should become necessary.

The subcommittee is mindful of the fact that there needs to be a balancing of considerations that are basically difficult of reconciliation. The subcommittee is desirous of preventing bankruptcy for those railroads that are in precarious financial condition, but at the same time does not contemplate that this should constitute a giveaway program. The subcommittee feels that by conferring upon the Interstate Commerce Commission the task of determining whether a particular loan should be guaranteed by the Government under the standards prescribed, it has adopted the means best calculated to accommodate its principal objectives. The Commission has functioned in this capacity previously under two different statutes, the Transportation Act of 1920 and the Reconstruction Finance Corporation Act and its record in connection with those two acts gives the subcommittee confidence that it can perform the present assignment successfully and efficiently.

It should be stated that the subcommittee does not believe that this temporary financial assistance to the railroads in the form of guaranteed loans as an answer to the long-range railroad problems. Enactment of other legislative proposals herein recommended will furnish a more substantial basis for curing the basic ills of the railroads. This guaranteed loan program is only offered as a palliative to meet the short-range emergent fiscal problems of some few of the major railroads and to give them time in which to start feeling the beneficial effects that will result from the adoption of the other legislative proposals and recommendations herein contained.

2. CONSTRUCTION RESERVE FUNDS

One of the proposals advanced to encourage the replacement of railroad facilities and the necessary modernization of the railroad plant involves the creation of a reserve on which taxes are deferred if deposits in the reserve are used for the purpose stated in the act.

Described as a "construction reserve fund," the plan is similar in purpose to the relief now provided by the Merchant Marine Act of 1936 to encourage ship construction. The subcommittee recommends that this benefit be likewise extended to all common carriers subject to the Interstate Commerce Act.

The proposal, which the subcommittee approves, contemplates the creation of a construction reserve fund on the books of common carriers regulated under the Interstate Commerce Act in accordance with regulations jointly prescribed by the Secretary of the Treasury and the Interstate Commerce Commission. In the computation of its Federal income tax, a deduction would be allowed equal to the amount deposited in the fund, but not to exceed in any one year an amount equal to the depreciation allowed under the uniform system of accounts prescribed by the Interstate Commerce Commission. Funds in this account would be limited in their use to the acquisition of equipment or other property used by the common carrier in the transportation business or for the reduction of debt, in whole or in part, which was incurred as an incident of any such acquisition after the passage of the act.

Amounts deposited in this fund must be used for the purposes intended within 5 years from the date of deposit; if not, any such amount will be taxed, plus interest, at the rate applicable to the year for which the deduction was taken. In this connection, the proposal contemplates that withdrawals for the purposes intended would be applied against deposits in the order of the deposits. The proposal further contemplates that as funds are withdrawn for the purposes intended, there will be a corresponding reduction in the basis of the property so acquired for the purpose of computing depreciation in respect thereof. Withdrawals for the reduction of debt, incurred in connection with acquisitions prescribed by the proposal, would be limited in amount to the adjusted basis of the assets in regard to which the debt is being reduced. Any interest earned by the fund must be retained in the fund.

In the event funds deposited in the "construction reserve," and earnings thereon, are not expended for the purposes prescribed by the act, provision is made for taxing such deposits, with interest, from the date of such deposit, and the collection of such taxes and interest before withdrawal from the "construction reserve."

Recognizing the importance of maintaining the railroad industry, and other common carriers, in a state of operational efficiency and being assured that the transportation industry is unable by reason of its financial condition adequately to maintain, replace, or modernize its facilities and plant, the subcommittee has determined that this proposal is reasonable and appropriate. Taxes are deferred pursuant to this proposal; not forgiven. It is believed that aside from the immediate beneficial effect that will result from this proposal, it will also have a long-range beneficial effect, not only on the operating efficiency of the carriers, but also on our economy. The use of this fund as a means of providing for capital replacement or expansion would also seem to provide a means whereby the level of procurement in this industry would be constant despite the rise and fall in the economy. This, of course, contributes to an orderly and stable economy redounding to the benefit of all.

3. COMPETITIVE RATEMAKING

The subject of competitive ratemaking as between the different forms of transportation was discussed at length during the hearings, the railroads urging enactment of legislation that would restrict substantially the authority of the Interstate Commerce Commission in this field. The subcommittee is not convinced that the record before it justifies approval of the railroads' proposal.

It is the policy of this subcommittee, and it is believed to be the policy of the Congress, that each form of transportation should have opportunity to make rates reflecting the different inherent advantages each has to offer so that in every case the public may exercise its choice, cost and service both considered, in the light of the particular transportation task to be performed. The subcommittee believes and the national transportation policy is clear, however, that such ratemaking should be regulated by the Commission to prevent unfair destructive practices on the part of any carrier or group of carriers.

It nevertheless appears that the Interstate Commerce Commission has not been consistent in the past in allowing one or another of the several modes of transportation to assert their inherent advantages in the making of rates. The subcommittee recommends, therefore, that the Commission consistently follow the principle of allowing each mode of transportation to assert its inherent advantages, whether they be of service or of cost. In 1945 in *New Automobiles in Interstate Commerce* (259 ICC 475), the subcommittee believes that the Commission properly construed the intent of Congress in this respect when it said:

As Congress enacted separately stated ratemaking rules for each transport agency, it obviously intended that the rates of each such agency should be determined by us in each case according to the facts and circumstances attending the movement of the traffic by that agency. In other words, there appears no warrant for believing that rail rates, for example, should be held up to a particular level to preserve a motor-rate structure, or vice versa (259 ICC at p. 538).

The subcommittee wishes to affirm the interpretation of the Commission given in the Automobile case epitomized in the words quoted above. The subcommittee therefore believes it necessary to amend the act only so as, in effect, to admonish the Commission to be consistent in following the policy enunciated in the Automobile case thus assuring reasonable freedom in the making of competitive rates. Such amendment can be made by adding to the Interstate Commerce Act, section 15 (a), a new subparagraph 3 to read as follows:

In a proceeding involving competition with another mode of transportation, the Commission, in determining whether a rail rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by railroad and not by such other mode.

The subcommittee anticipates that the broad effect of this amendment will be to encourage competition between the different modes of transportation to the benefit of the shipping public. Some members of the subcommittee are of the opinion that the amendment recom-

mended does not give sufficient freedom for making competitive rates; but, for the purpose of reporting to the full committee, the language was adopted as shown.

The subcommittee further notes that the Supreme Court in *Schaeffer Transportation Co. et al v. U. S.* (No. 20, October term, decided December 9, 1957), in reversing the Interstate Commerce Commission for denying a motor carrier application because rail service was "reasonably adequate," said—

To reject a motor carrier's application on the bare conclusion that existing rail service can move the available traffic, without regard to the inherent advantages of the proposed service, would give one mode of transportation unwarranted protection from competition from others.

Later it said—

The ability of one mode of transportation to operate with a rate lower than competing types of transportation is precisely the sort of "inherent advantage" that the congressional policy requires the Commission to recognize.

The purpose of this amendment is to produce consistency in the interpretation of the national transportation policy.

4. ICC AUTHORITY OVER INTRASTATE RATES

According to testimony received from the rail witnesses during the course of the hearings, a troublesome problem of the railroads arises from the difficulties and delays encountered when they seek to raise the level of rates, fares, and charges effective on like interstate traffic. The situation is most burdensome in cases of prolonged delay when authority is sought at the State level to make general increase in intrastate rates, fares, and charges corresponding to interstate increases authorized by the Interstate Commerce Commission, but the problem of delay is not confined to that found in general rate adjustments. Nor, as will be seen, is the matter of delay the only basis for complaint in connection with adjusting the level of intrastate rates, fares, and charges.

Under section 13 of the Interstate Commerce Act, the Interstate Commerce Commission is authorized, in certain cases, to require changes in the intrastate rates, fares, and charges of railroads and certain other carriers. If the Commission finds, after full hearing, that any rate, fare, or charge made or imposed by State authority causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate commerce on the other, or any undue, unreasonable, or unjust discrimination against interstate commerce, the Commission is empowered to prescribe for the future such rate, fare, or charge as, in its judgment, will remove the advantage, preference, prejudice, or discrimination; and the rates, fares, and charges so prescribed by it "shall be observed while in effect * * *, the law of any State or the decision or order of any State authority to the contrary notwithstanding."

The Commission and the courts have construed the phrase "undue, unreasonable, or unjust discrimination against interstate * * * com-

merce" as encompassing discrimination against interstate commerce resulting from intrastate rate levels relatively so low that they fail to contribute their proportionate share of the revenues necessary for the maintenance of an adequate railroad system. The Commission has often availed itself of the power conferred upon it, so construed, and ordered increases in the level of intrastate rates, particularly in instances where, subsequent to a general increase in rates for interstate traffic States have failed to authorize similar increases in the rates for intrastate traffic.

The Commission, however, exerts the power with hesitancy, regarding Federal authority in the area of intrastate rates as an authority to be exercised with considerable delicacy; and for reasons of "comity" it does not ordinarily take action looking toward removal of disparities between interstate and intrastate rates under the circumstances described until the appropriate State regulatory authority has been invoked, and until the matter has been disposed of finally at the State level. For this reason, there is ordinarily very wide opportunity for inordinate delay at the State level before the protection afforded by the Interstate Commerce Act may, as a practical matter, be invoked.

To alleviate this burdensome delay in obtaining prescription of lawful intrastate rates by the Interstate Commerce Commission, it is proposed to provide in section 13 of the Interstate Commerce Act that upon the filing of a proper petition involving the lawfulness of any intrastate rate, fare, or charge the Commission shall institute its investigation forthwith and act with special expedition (whether or not the rate, fare, or charge has theretofore been considered by State regulatory authority and without regard to the pendency of any State proceeding thereon). Similarly, it would be provided that when railroads are before the Interstate Commerce Commission in connection with general adjustments in interstate rates they may seek authority in the same proceeding to make comparable adjustments in intrastate rates and the Commission, incident to its authorization of interstate rate adjustments, shall grant like authority for intrastate rate adjustments if it finds them justified.

This approach would meet the need of the carriers for more prompt regulatory action in the adjustment of intrastate rates and has the merit of doing so without enlarging the authority of the Interstate Commerce Commission for, as mentioned earlier, the Commission already has the power under present law to remove discrimination against interstate commerce caused by any intrastate rate, fare, or charge. The subcommittee's proposal would merely implement that power.

The subcommittee also proposes to strengthen section 13 of the Interstate Commerce Act in another particular. The grounds upon which the Interstate Commerce Commission may require changes in intrastate rates would be more clearly defined. Under present law, as has been pointed out, the Commission is given authority to require such changes to the extent found by it to be necessary to remove any undue, unreasonable, or unjust discrimination against interstate commerce. In many instances, because of the vagueness of this standard, it is impossible as a practical matter to make the showing necessary to justify an order by the Commission requiring an adjustment in intrastate rates, fares, or charges. This situation would be substantially and beneficially corrected by authorizing the Commission also

to require changes in intrastate rates, fares, or charges found by it to impose an undue burden on interstate commerce.

Moreover, one further clarification of the standard is made desirable by reason of the possible effect of the recent decision of the Supreme Court of the United States in *Chicago, Milwaukee, St. Paul and Pacific Railroad Co. v. State of Illinois* (78 S. Ct. 304), decided January 13, 1958. In that case, at page 309, it was held that under present section 13 of the Interstate Commerce Act the deficit from this single commuter operation cannot—

fairly be adjudged to work an undue discrimination against the Milwaukee Road's interstate operations without findings which take the deficit into account in the light of the carrier's other intrastate revenues from Illinois traffic, freight and passenger.

From the testimony, it is clear that this opinion of the Supreme Court not only places an intolerable burden under present accounting practices, but in addition presents an almost impossible obstacle because of the problem of segregating intrastate and interstate expenses of rail operation. Further the subcommittee thinks that each service should stand on its own feet, supported by rates that are compensatory.

Fear has been expressed that this case might be construed as requiring that the finding of "undue, unreasonable, or unjust discrimination against, or undue burden on, interstate or foreign commerce" stipulated by the act be made only in the light of the overall, statewide totality of a carrier's operating results deriving from the entire body of that carrier's rates applicable within the State, thus precluding such a finding on a showing of only the effect of the particular rate or rates in issue. To protect against such an interpretation of the Milwaukee case it is proposed to provide that the Commission, in determining whether any intrastate rate causes discrimination against, or burden on, interstate commerce, need not consider in totality the overall statewide results of the carrier's operations but need consider only the effect of the particular rate or rates in issue.

5. ICC AUTHORITY OVER UNPROFITABLE SERVICES AND FACILITIES

A most serious problem for the railroads is the difficulty and delay they often encounter when they seek to discontinue or change the operation of services or facilities that no longer pay their way and for which there is no longer sufficient public need to justify the heavy financial losses entailed. The subcommittee believes that the maintenance and operation of such outmoded services and facilities constitutes a heavy burden on interstate commerce.

Railroad management, it must be understood, is not always free without authorization to discontinue, curtail, consolidate or otherwise change services or facilities in an effort to deal realistically with unprofitable, deficit-producing operations. Generally speaking, such matters fall within the scope of State law; and in a great many instances a railroad may not discontinue or change the operation of a train or other service or facility without first obtaining permission to do so from the regulatory authority of the State in which the operation is conducted.

Without reciting individual cases the subcommittee is satisfied that State regulatory bodies all too often have been excessively conservative and unduly repressive in requiring the maintenance of uneconomic and unnecessary services and facilities. Even when allowing the discontinuance or change of a service or facility, these groups have frequently delayed decisions beyond a reasonable time limit. In many such cases, State regulatory commissions have shown a definite lack of appreciation for the serious impact on a railroad's financial condition resulting from prolonged loss-producing operations.

To improve this situation, the subcommittee proposes to give the Interstate Commerce Commission jurisdiction in the field of discontinuance or change of rail services and facilities similar to the jurisdiction it now has over intrastate rates under section 13 of the Interstate Commerce Act so that when called upon to do so it may deal with such matters that impose an undue burden on interstate commerce. This, the subcommittee believes, would protect and further the broad public interest in a sound transportation system and would prevent undue importance being attached to matters of a local nature.

6. AGRICULTURAL COMMODITIES EXEMPTION

The so-called agricultural commodities exemption contained in section 203 (b) (6) of the Interstate Commerce Act provides that nothing in part II of the act (relating to the regulation of motor carriers), except certain requirements as to qualifications and maximum hours of service of employees and safety of operation or standards of equipment, shall be construed to include:

motor vehicles used in carrying property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof), if such motor vehicles are not used in carrying any other property, or passengers, for compensation.

This exemption from economic regulation appears originally to have been intended to aid farmers and other producers of domestic foodstuffs by relieving them of some of the burdens of regulation so that the movement of their products from point of production to market or to processing or storage points would be facilitated. By a continuing process of administrative and judicial interpretation, however, the exemption has been extended to the transportation of commodities that have received varying degrees of commercial processing, and to the transportation of such commodities in ordinary commercial channels beyond the initial movement from the point of production. It has also been held to apply to the transportation of imported commodities as well as to those domestically produced.

Regulated carriers are handicapped in their competition for traffic in "agricultural" commodities, for while the rates of the regulated carriers are strictly and rigidly controlled and are required to be published, the rates of the exempt haulers are not subject to any control and need not even be made public. As a consequence, large and ever-growing volumes of important traffic have been diverted to the exempt truckers and the diversion continues. The impact upon the regulated carriers is already serious; and the erosion of further

classes of traffic is threatened by the trend of administrative and judicial determinations expanding the scope of the exemption.

Attempts have been made to demonstrate that the benefits of the agricultural exemption accrue to the farmer in the form of increased income. These attempts are not convincing to the subcommittee, and it appears that others than farmers are receiving benefits. It is important that this trend be halted before the position of the regulated carriers is more seriously impaired. The subcommittee, therefore, recommends a freezing, with a slight rollback, of the agricultural exemption in accordance with ruling No. 107, March 19, 1958, Bureau of Motor Carriers of the Interstate Commerce Commission.

The limited amendment of section 203 (b) (6) recommended by the subcommittee would halt further expansion of the exemption, and it would return to economic regulation the transportation of frozen fruits and vegetables and imported agricultural commodities.

Grandfather rights would also be provided. Any person engaged on January 1, 1958, in trucking commodities brought back under regulation by the above-described amendment of section 203 (b) (6) would be entitled to a certificate or permit allowing him, under regulation, to continue hauling the same commodities within the same areas or between the same points.

7. ECONOMIC REGULATION OF COMMERCIAL TRANSPORTATION

A matter of serious concern to the subcommittee is the growing practice of persons engaging in the commercial transportation of property by motor vehicle under circumstances that do not constitute bona fide private carriage, as that term is properly understood, but that nonetheless enable them to evade the economic regulation to which common and contract carriers by motor vehicles are subject even though the transportation services performed are not specifically exempt from such regulation. Most frequently, perhaps, evasion of the economic regulation to which it is intended that all for-hire carrier transportation of property other than that specifically exempted shall be subject is accomplished under the guise of private carriage.

The enormous growth of commercial private carriage of property by motor vehicle in recent years, resulting as it has in a continuing erosion of huge volumes of traffic that would otherwise be available for transportation by public carriers, is a serious problem for the railroads and other common carriers. To the extent that this growth has occurred in bona fide private carriage, i. e., the transportation of one's own materials, supplies, and products in one's own vehicles within the scope and in furtherance of one's primary business enterprise (other than transportation), there is no room for complaint; but there is just cause for complaint as to motor carriage which although performed under the guise of private transportation is actually public transportation. Not only do the purveyors of the transportation service evade economic regulations; but in many instances payment of the Federal transportation excise taxes is also avoided, for the tax on amounts paid for the transportation of property is not levied on proprietary transportation.

Various subterfuges are employed to evade economic regulation and avoid imposition of the transportation excise taxes. The one

most commonly used is the so-called buy-and-sell method of operation involving the issuance of bills of sale, invoices, and other such instruments to make it appear that the commodities being transported are those of the vehicle owner when in fact the transaction is merely a device to provide transportation for hire without a certificate or permit and without payment of the transportation tax. Another is the backhaul method of operation increasingly engaged in by concerns that deliver in their own trucks articles which they manufacture or sell and then purchase merchandise at or near their point of delivery for transportation back to a point near their own terminal for sale to others, or where they transport property they do not own, such transportation being performed only for the purpose of receiving compensation for the otherwise empty return of their trucks.

There are numerous variations but, whatever the precise nature of the subterfuge employed, carriage of this sort undermines the strength of the regulated for-hire carriers and in so doing it also injures the public which is largely dependent upon regulated for-hire carriage for its transportation requirements. Protection is needed from destructive competition of this kind.

The Interstate Commerce Commission has said that this is one of the problems of most serious concern to it in administration of the Interstate Commerce Act, that where so-called private carriage is a subterfuge for engaging in public transportation it constitutes a growing menace to shippers and carriers alike, being injurious to sound public transportation, promoting discrimination between shippers, and threatening existing rate structures. It was to curb just such practices that part II of the Interstate Commerce Act was enacted.

In the first session of the present Congress (Public Law 85-163, approved August 22, 1957) the Interstate Commerce Act was amended to prohibit one (except as otherwise specifically provided) from engaging in any "for-hire transportation business by motor vehicle" in interstate or foreign commerce without a certificate or a permit authorizing such transportation. This prohibition is expected to prove helpful in correcting certain of the abuses described, but it appears that loopholes may still remain. What is needed, in the opinion of the subcommittee, is a further prohibition to the effect that no person in any commercial enterprise other than a duly authorized or specifically exempt for-hire transportation business shall transport property by motor vehicle in interstate or foreign commerce unless such transportation is solely within the scope and in furtherance of a primary business enterprise (other than transportation) of such person.

With the Interstate Commerce Act amended in this way commercial highway transportation of property in interstate or foreign commerce would, with certain specific exemptions, be required to fall into one or another of three classes: (a) duly certificated common carriage, (b) duly permitted contract carriage, or (c) transportation solely within the scope and in furtherance of a primary business enterprise (other than transportation) of the transporter. Other commercial highway transportation, except as specifically provided, would be prohibited. This, it is believed, would serve to correct most of the abuses that have arisen in the name of private carriage and yet would not in any way jeopardize or interfere with what might be called legitimate or bona fide private carriage. Indeed the "primary business test"

contained in *Brooks Transportation Co. v. U. S.* (340 U. S. 925 (1951)), so sacrosanct to the private carriers and deemed by them essential to their best interests and the preservation of their rights, would be written directly into the statute.

VII. DISCUSSION OF RECOMMENDATIONS NOT WITHIN JURISDICTION OF THIS SUBCOMMITTEE

1. REPEAL OF TRANSPORTATION EXCISE TAXES

In the opinion of the subcommittee, repeal of the transportation taxes would do a great deal to improve the depressed condition of the railroads. These taxes were established as temporary measures during wartime and unfortunately no termination date was provided in the original legislation. Repeal of these taxes will be helpful not only to the railroads but to the general economy because the transportation tax applies to every successive stage of production from raw material to finished product. If there are five transportation movements of an item, there are five 3-percent individual tax assessments on the transportation cost, causing a total cumulative effect which is extremely serious. The 3-percent transportation tax encourages shippers to provide their own fleet of private trucks, thereby causing a loss of business to regulated carriers. The small-business man often cannot buy his own trucks so he is penalized by having to use common carriers and pay the transportation tax. Thus, from the point of view of the transportation industry and the consumer, removal of these unsound and burdensome taxes would be an immediate help both to economic recovery and to improving the health of the regulated industry.

For these and other reasons, 14 Senators have sponsored a measure designed to repeal these transportation taxes. It is the sincere hope of the subcommittee that repeal of taxes will be approved by the Senate Finance Committee.

2. TWENTY-YEAR DEPRECIATION PERIOD FOR RAILROAD PROPERTY

As it is now, extremely long service lives ranging in some cases from 50 to 100 years, are assigned to depreciable railway property of the railroads. These long lives attributed to railroad property for tax purposes are wholly unrealistic and constitute a severe handicap. Allowing a 20-year life for depreciable property of railroads would bring about a reasonable increase in depreciation charges on railroad property and would help railroad management to undertake changes in existing property and make additions and betterments that are necessary to meet the modern competitive situation faced by the railroads.

3. MAIL TRANSPORTATION LEGISLATION

From the testimony the subcommittee believes that the statutes for transporting mail are obsolete and should be amended. Consequently it is urged that the Post Office and Civil Service Committee reexamine present laws to provide fair and impartial treatment for hauling mail by all forms of transportation. For instance, the railroads are required to haul the mail as directed by the Post Office Department under threat

of fine for not performing. Consideration should be given to removing this compulsion. Modern legislation is likewise needed to provide for hauling of mail by highway carriers.

VIII. RECOMMENDATION FOR TRANSPORTATION POLICY STUDY

The subcommittee has pointed out the existence of a number of long-range policy matters that need extensive study and recommendations to the end that appropriate legislation be enacted to insure a sound national transportation system. It is a subcommittee recommendation that the Senate Committee on Interstate and Foreign Commerce be authorized to make the necessary studies, with authority to employ three highly qualified experts in the field of transportation for the purpose. Reports on the results of the studies should be made to the committee within 18 months. Sufficient staff and other resources should be provided to allow adequate studies and recommendations to be made within the specified time.

It is recommended that the proposed study include the following:

1. The need for regulation of transportation under present-day conditions and, if there is need for regulation, the type and character of that regulation. The hearings on the railroad situation show one thing above all else: The existence of substantial doubt concerning the efficacy of present transportation regulation. To ascertain the public interest in regulation, the burden should be placed on the public and the carriers to show why it is needed and to what extent. Critical answers to specific proposals for less regulation are required to settle the constant agitation for change and the resulting confusion in the public mind concerning the need and propriety of Government regulation of transportation under prevailing conditions.

2. The area of Federal policy dealing with Government assistance provided the various forms of transportation and the desirability of a system of user charges to be assessed against those using such facilities.

3. The subject of the ownership of one form of transportation by another. Such ownership, except in unusual cases, is generally either forbidden or made extremely difficult under existing statutes.

4. Examination of Federal policy on the subject of large-scale consolidations and mergers in the railroad industry.

5. Policy considerations for the kind and amount of railroad passenger service necessary to serve the public and provide for the national defense.

6. Additional matters of Federal regulation (and exemption therefrom) and promotional policy that are related to the above-mentioned subjects.

INDIVIDUAL VIEWS OF SENATOR FRANK J. LAUSCHE

I am in concurrence generally with the contents of the report being submitted to the members of the Interstate and Foreign Commerce Committee of the Senate by the Special Subcommittee on Surface Transportation under the chairmanship of Senator George A. Smathers of Florida.

There are certain aspects of the report and particularly the recommendations with which, however, I am not in agreement.

GUARANTEED LOAN

I favor the enactment of a bill that will authorize the Federal Government to guarantee loans made to railroads in the aggregate amount of \$700 million, providing such loans are used by the borrowing railroads to purchase capital equipment. I do not join in the recommendation of my associate members on the subcommittee that the borrowing railroads be permitted to use any part of the borrowed moneys for the purpose of paying interest on their funded debt or for the defrayal of operating expenses. Authorizing the borrowed money to be used for the paying of interest on bonded indebtedness would be a wrong to the taxpayers and a thoroughly unjustified boon to the bondholders. To authorize even a limited part of the guaranteed loans to be used for operating expenses of the railroads would be wrong because of the dangerous precedent which it would establish for other segments of the economy in the future to expect similar service from the Federal Government.

EXCISE TAX

I favor the proposal that the 3-percent excise tax, now existent against freight transportation, be repealed, but not the 10-percent excise tax on passenger transportation. The testimony in the hearings conducted by the subcommittee clearly disclosed that the existence of the 3-percent excise tax against freight transportation has caused many private shippers to discontinue the use of public carriers, establish their own transportation system, and thus escape the paying of the tax. While there was evidence that passenger business was being increasingly lost to the air, bus carriers, and the private passenger automobile, in my opinion, it did not establish that the elimination of the passenger excise tax would restore to the railroads any part of the passenger business.

CONSTRUCTION RESERVE FUNDS

I do not join in the recommendation that the rail, air, and barge, and truck carriers, should be permitted to establish a construction reserve fund to be exempt from income-tax assessments until such time, not to exceed 5 years, when the fund is invested in the acquisition of capital equipment. I oppose the adoption of this new method of deferred taxation in the isolated method proposed. If the establishment by business and industry of construction reserve funds,

with the right to defer payment of income taxes until the time, not to exceed 5 years, such funds are invested in capital equipment, is economically sound, then the right ought to be made available, not only to the common carriers, consisting of the truckers, the railroads, the airlines, and the barge carriers, but also to all other types of business and industry.

ACCELERATED DEPRECIATION

The report of the majority members of the Surface Transportation Subcommittee recommends to the Finance Committee the adoption of a law that would allow the railroads, airlines, truckers, and barge carriers, the right to accelerate the depreciation of their properties, and thus be given relief from their present income-tax burdens. With regard to this proposal, I likewise feel that it should not be treated in isolation and separation from all other businesses and industries which are likewise affected.

The proposals, respectively, for legislation that would authorize (1) the establishment of construction reserve funds for the purpose of enjoying the benefits of deferred taxation and (2) the granting of the right to accelerate the depreciation of the properties of businesses and industries for the purpose of obtaining relief against the income-tax burden cannot intelligently and safely be acted upon by the members of the Interstate and Foreign Commerce Committee dealing only with the businesses of the railroads, barge lines, airlines, and truckers. It should be studied by the Finance Committee, which, because of its overall knowledge of Federal tax and fiscal problems, will be able better to determine (1) the impact such a program would have upon the fiscal soundness of the Nation, and (2) the justification for the adoption of these new methods of providing tax relief.

GREATER FREEDOM TO MANAGE ITS OWN BUSINESS

Though I concur with the recommendation made by my colleagues on the Surface Transportation Subcommittee which, if carried into effect, will give the railroads greater freedom in using their inherent advantage in competing with truck lines and barge lines for freight business, I recognize that strong arguments can be made that the subcommittee should have gone further and followed the suggestions made by the Secretary of Commerce on the subject.

The establishment of a \$700 million fund to guarantee loans, the elimination of the 3-percent excise tax on freight transportation, the tax relief that might come through the adoption of the construction reserve fund, and the acceleration of depreciation of properties of the railroads, in my opinion, will not provide the long-range remedy needed by them. That remedy can only be provided through a liberalization of the railroads' abilities to manage their own businesses without carrying an umbrella for the protection of the competing modes of transportation. Liberalization of the rights of railroads to manage their own businesses, circumscribed, of course, against the right to engage in cutthroat competition by offering services below cost, is further emphasized by the admitted facts that their competitors, the airlines, trucklines, and barge lines, are now being either directly or indirectly subsidized by the Federal Government.

FRANK J. LAUSCHE.

INDIVIDUAL VIEWS OF SENATOR WILLIAM A. PURTELL

I concur in general with the contents of the report herewith submitted by the Subcommittee on Surface Transportation to the members of the Interstate and Foreign Commerce Committee. However, there are certain aspects of the report and particularly the recommendations therein with which I am not in complete agreement.

I therefore reserve the right to suggest such modifications, changes, or corrections as may appear desirable prior to final action thereon by the full committee.

WILLIAM A. PURTELL.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italic; and existing law in which no change is proposed is shown in roman):

INTERSTATE COMMERCE ACT

(Title 49, U. S. C.)

Sec. 1.

* * * * *

(2) The provisions of this part shall also apply to such transportation of passengers and property and transmission of intelligence, but only in so far as such transportation or transmission takes place within the United States, but shall not apply—

(a) To the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one State and not shipped to or from a foreign country from or to any place in the United States as aforesaid *except as otherwise provided in this part*;

* * * * *

(17) (a) The directions of the commission as to car service and to the matters referred to in paragraphs (15) and (16) may be made through and by such agents or agencies as the commission shall designate and appoint for that purpose. * * * *Provided, however, That nothing in this part shall impair or affect the right of a State, in the exercise of its police power, to require just and reasonable freight and passenger service for intrastate business, except insofar as such requirement is inconsistent with any lawful order of the commission made under the provisions of this part* [.] *and except as otherwise provided in this part.*

* * * * *

[(4) Whenever in any such investigation the commission, after full hearing, finds that any such rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce, which is forbidden and declared to be unlawful it shall prescribe the rate, fare, or charge, or the maximum or minimum, maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, preference, prejudice, or discrimination. Such rates, fares, charges, classifications, regulations, and practices shall be

observed while in effect by the carriers parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.】

(4) Whenever in any such investigation the Commission, after full hearing, finds that any such rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against, or undue burden on, interstate or foreign commerce (which the Commission may find without considering in totality the operations or results thereof of any carrier, or group or groups of carriers wholly within any State), which is hereby forbidden and declared to be unlawful, it shall prescribe the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, preference, prejudice, discrimination, or burden: Provided, That upon the filing of any petition authorized by the provisions of paragraph (3) hereof to be filed by the carrier concerned, the Commission shall forthwith institute an investigation as aforesaid into the lawfulness of such rate, fare, charge, classification, regulation, or practice (whether or not theretofore considered by any State agency or authority and without regard to the pendency before any State agency or authority of any proceeding relating thereto) and shall give special expedition to the hearing and decision therein.

(5) In any proceeding before the Commission involving an investigation of or authorization or permission for a general adjustment in rates, fares, or charges, or any of them, or carriers subject to this part for the transportation of property or passengers, or both, in interstate commerce throughout, or substantially throughout, the United States, or one or more of the three major rate classification territories thereof (Official, Western or Southern), any such carrier or carriers parties thereto may by petition seek authority or permission of the Commission for a comparable adjustment of rates, fares, or charges for the transportation of like property or passengers wholly within an individual State or individual States. If, in such proceeding, the Commission finds (as it is hereby authorized to do) that authorizing or permitting an adjustment in interstate rates, fares, or charges without authorizing or permitting a comparable adjustment in intrastate rates, fares, or charges would cause, or create a circumstance of, advantage, preference, prejudice, discrimination or burden declared in paragraph (4) of this section to be unlawful, the Commission shall, incident to any adjustment it may authorize or permit in such interstate rates, fares, or charges, authorize or permit a comparable adjustment in such intrastate rates, fares, or charges. Pursuant to such authorization the said carrier or carriers, upon making any adjustment so authorized or permitted by the Commission in such interstate rates, fares, or charges may without further authority make a comparable adjustment in such intrastate rates, fares, or charges and adjustments so made in intrastate rates, fares, or charges shall be observed while continued in effect by the said carrier or carriers, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

13a. A carrier or carriers subject to this part, if their rights with respect to the discontinuance or change, in whole or in part, of the

operation or service of any train or ferry engaged in the transportation of passengers or property in interstate, foreign and intrastate commerce, or any of them, or of the operation or service of any station, depot or other facility where passengers or property are received for transportation in interstate, foreign and intrastate commerce, or any of them, are subject to any provision of the constitution or statutes of any State or any regulation or order of (or are the subject of any proceeding pending before) any court or an administrative or regulatory agency of any State, may, but shall not be required to, file with the Commission, mail to the Governor of each State in which such train, ferry, station, depot or other facility is operated, and post in every station, depot or other facility directly affected thereby, notice at least thirty days in advance of any such proposed discontinuance or change. The carrier or carriers filing such notice may discontinue or change any such operation or service pursuant to such notice except as otherwise ordered by the Commission pursuant to this section, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any court or State authority to the contrary notwithstanding. Upon the filing of such notice the Commission shall have authority during said thirty days' notice period, either upon complaint or upon its own initiative without complaint, to enter upon an investigation of the proposed discontinuance or change. Upon the institution of such investigation, the Commission by order served upon the carrier or carriers affected thereby at least ten days prior to the day on which such discontinuance or change would otherwise become effective, may require such train, ferry, station, depot or other facility to be continued in operation or service, in whole or in part, pending hearing and decision in such investigation, but not for a longer period than four months beyond the date when such discontinuance or change would otherwise have become effective. If, after hearing in such investigation, whether concluded before or after such discontinuance or change has become effective, the Commission finds that the operation or service of such train, ferry, station, depot or other facility is required by public convenience and necessity and that such operation or service will not result in a net loss therefrom to the carrier or carriers and will not otherwise unduly burden interstate or foreign commerce, the Commission may by order require the continuance or restoration of operation or service of such train, ferry, station, depot or other facility, in whole or in part, for a period not to exceed one year from the date of such order. The provisions of this section shall not supersede the laws of any State or the orders or regulations of any administrative or regulatory body of any State applicable to such discontinuance or change unless notice as in this section provided is filed with the Commission. On the expiration of an order by the Commission after such investigation requiring the continuance or restoration of operation or service, the jurisdiction of any State as to such discontinuance or change shall no longer be superseded unless the procedure provided by this section shall again be invoked by the carrier or carriers.

* * * * *

15a.

(1) When used in this section, the term "rates" means rates, fares, and charges, and all classification, regulations, and practices relating thereto.

(2) In the exercise of its power to prescribe just and reasonable rates the Commission shall give due consideration, among other factors

to the effect of rates on the movement of traffic by the carrier or carriers for which the rates are prescribed; to the need, in the public interest, of adequate and efficient railway transportation service at the lowest cost consistent with the furnishing of such service; and to the need of revenues sufficient to enable the carriers, under honest, economical, and efficient management to provide such service.

(3) *In a proceeding involving competition between carriers of different modes of transportation subject to this Act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this Act.*

* * * * *

20d. (1) *It is the purpose of this section to aid common carriers by railroad subject to this part in rendering proper transportation service to the public by providing temporary financial assistance to them in obtaining funds to finance or refinance the acquisition or construction of equipment or additions and betterments for use in transportation service and in obtaining funds needed for operating expenses, working capital, and interest on existing obligations, all to the end of fostering the preservation and development of a national transportation system adequate to meet the needs of the commerce of the United States, of the postal service, and national defense.*

(2) *In order to carry out the purpose declared in this section, the Commission, upon terms and conditions prescribed by it and consistent with the provisions of this section, may guarantee any lender, or trustee under a trust indenture or agreement for the benefit of the holders of any securities issued thereunder, by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan, discount, or advance, or on any commitment in connection therewith, which may be made for the purposes set forth in this section, except that there shall be no guarantee of a loan to be used in reduction of the principal of an obligation other than in connection with the refinancing of an equipment obligation: Provided, That in no event shall the aggregate of all loans guaranteed by the Commission, including unpaid interest, exceed \$700,000,000, of which no more than \$150,000,000 may be loans for operating expenses and interest on existing obligations.*

(3) *Any such carrier may, prior to December 31, 1960, make application to the Commission, in such form as the Commission may prescribe, requesting guaranty by the Commission as herein authorized and setting forth the amount and term of the loan to be guaranteed; the purpose of the loan and the use to which the proceeds therefrom will be applied; the inability of the applicant to obtain such funds on reasonable terms without such guaranty; the character and value of the security; if any, that the applicant will pledge as collateral for the loan; and that the loan is necessary or appropriate to effectuate the purpose of this section. The application shall be accompanied by statements showing in detail such facts as the Commission may require with regard to the situation of the applicant. The Commission shall give preference to and expedite the consideration of any such application.*

(4) *No guaranty shall be made under this section—*

(A) *unless the Commission is of the opinion that the proposed loan is necessary or appropriate to effectuate the purpose of this section;*

(B) *unless the Commission is of the opinion that without such guaranty the applicant carrier would be unable to obtain necessary funds, or reasonable terms, for the purposes for which the loan is sought;*

(C) *if the loan involved is at a rate of interest which, in the judgment of the Commission, is unreasonably high, or if the terms of such loan permit full repayment more than fifteen years after the date thereof;*

(D) *unless the Commission is of the opinion that the prospective earning power of the applicant carrier, together with the character and value of the security pledged, if any, furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and reasonable protection to the United States;*

(E) *unless the Commission is of the opinion that the applicant carrier is not in need of reorganization of its capital structure;*

(F) *unless the applicant carrier agrees that it will declare no dividends on its capital stock as long as the loan remains unpaid.*

(5) *The Commission may consent to the modification of the provisions as to rate of interest, time of payment of interest or principal, security, if any, or other terms and conditions of any guaranty which it shall have entered into pursuant to this section, or the renewal or extension of any such guaranty, whenever the Commission shall determine it to be equitable to do so.*

(6) *Payments required to be made as a consequence of any guaranty by the Commission pursuant to the provisions of this section shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for the purpose of carrying out the provisions of this section.*

(7) *The Commission shall prescribe and collect a guaranty fee in connection with each loan guaranteed under this section. Such fees shall not exceed such amounts as the Commission estimates to be necessary to cover the administrative costs of carrying out the provisions of this section. Sums realized from such fees shall be deposited in the Treasury as miscellaneous receipts.*

(8) (a) *To permit it to make use of such expert advice and services as it may require in carrying out the provisions of this section, the Commission may use available services and facilities of departments and other agencies and instrumentalities of the Government, with their consent and on a reimbursable basis.*

(b) *Departments, agencies, and instrumentalities of the Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this section.*

(9) *Administrative expenses under this section shall be paid from appropriations made to the Commission for administrative expenses.*

(10) *Except with respect to such applications as may then be pending, the authority granted by this section shall terminate at the close of December 31, 1960: Provided, That its provisions shall remain in effect thereafter for the purposes of guaranties made by the Commission.*

25a. (1) It is hereby declared to be the general policy of the Congress to promote and encourage, in the interest of national defense and public welfare, the construction, reconstruction, reconditioning, or acquisition of equipment and other property used in the transportation business by common carriers subject to the Interstate Commerce Act, and the retirement (in whole or in part) of debt incurred, after the effective date of this section, for such purposes. It is the purpose of this section to provide implementation of this general policy through the establishment by any such carrier of a construction reserve fund, with the privileges and subject to the limitations herein prescribed. Such construction reserve fund shall be established, maintained, expended, and used in accordance with the provisions of this section and rules or regulations to be prescribed by the Interstate Commerce Commission and the Secretary of the Treasury and under the joint control of the carrier and the Commission. Such fund shall be maintained in a separate cash deposit or in obligations of the United States or any agency thereof.

(2) All earnings of the fund shall be deposited in the fund. Such earnings may be withdrawn by the carrier only for expenditures for the purposes established in paragraph (1) of this section and only after the expenditure for the purposes established in paragraph (1) of this section of the principal amount on which such earnings accrued. If such earnings are not expended for such purposes within five years from the date of deposit in the fund, 85 per centum of such earnings shall be paid to the United States as a tax, in lieu of any other tax which may be applicable to such earnings.

(3) In computing the taxable income under section 63 (a) of the Internal Revenue Code of 1954, as amended, of any common carrier subject to this Act there shall be allowed as a deduction, in addition to the deductions specified in that Code, the amounts deposited in the said construction reserve fund prior to the fifteenth day of the third month following the end of such common carrier's taxable year, without limitation except that the deduction allowed pursuant to this section shall not exceed in any one year an amount equal to the depreciation recorded in the operating expense accounts for such year under the provisions of the uniform system of accounts prescribed by the Interstate Commerce Commission.

(4) In computing the gross income under section 61 (a) of the Internal Revenue Code of 1954, as amended, of any common carrier subject to this Act there shall be included all principal amounts:

(a) withdrawn during the taxable year from the said construction reserve fund for purposes other than those specified in paragraph (1) of this section, and

(b) deposited in the reserve fund which shall be permitted to remain in such fund for five years after having been deposited therein shall be considered to have been so withdrawn from such fund on the first day following the expiration of such five-year period.

All such principal amounts shall be subject to tax at the rate or rates and shall be subject to the provisions of the Internal Revenue Code of 1954, as amended, applicable to the taxable year in which such amounts were deducted in computing taxable income pursuant to paragraph (3) of this section including the interest under section 6601 of such Code, as amended, as if a tax deficiency had existed for the year for which the deduction was taken, whether or not a tax deficiency would otherwise exist for such year. For the purpose of this section, any principal amounts expended or withdrawn from the reserve fund shall be applied against principal amounts deposited therein in order of the deposits.

(5) *The regulations prescribed by the Interstate Commerce Commission and the Secretary of the Treasury, pursuant to paragraph (1) hereof, shall provide that no amounts may be withdrawn from the construction reserve fund except (a) for the uses prescribed in paragraph (1) hereof or (b) upon payment to the Secretary of the Treasury of the tax liability arising thereon as computed under paragraph (4) hereof.*

(6) *Amounts on deposit in a construction reserve fund shall not be considered an accumulation of earnings and profits for the purposes of part I, subchapter G, chapter I, of the Internal Revenue Code of 1954, as amended.*

(7) *The basis for determining gain or loss and for depreciation, for the purposes of Federal taxes, of any property constructed, reconstructed, reconditioned, or acquired by the taxpayer, in whole or in part, out of the construction reserve fund, shall be reduced by the amount from the construction reserve fund expended in the construction, reconstruction, reconditioning, or acquisition of such property, or expended to retire debt incurred for such purposes after the effective date hereof: Provided, That no expenditures shall be made from such fund for such purposes in excess of the then adjusted basis of the property to which such indebtedness relates.*

(8) *Qualifying expenditures under this section shall include only expenditures which are chargeable to the accounts prescribed and approved by the Interstate Commerce Commission to show the investment of a common carrier subject to this Act in property devoted to transportation service.*

* * * * *

203.

* * * * *

(b) *Nothing in this part, except the provisions of section 204 relative to qualifications and maximum hours of service of employees and safety of operation or standards of equipment shall be construed to include (1) motor vehicles employed solely in transporting school children and teachers to or from school; or*

* * * * *

(6) *motor vehicles used in carrying property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof), if such motor vehicles are not used in carrying any other property, or passengers, for compensation [;]: Provided, That the words "property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" as used herein shall include property shown as "Exempt" in the "Commodity List" incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as "Not exempt": Provided further, however, That notwithstanding the preceding proviso the words "property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" shall not be deemed to include frozen fruits, frozen berries, or frozen vegetables and shall be deemed to include cooked or uncooked (including breaded) fish or shellfish, when frozen or fresh.*

* * * * *

(c) Except as provided in section 202 (c) of this title, subsection (b) of this section, in the exception in subsection (a) (14) of this section, and in the second proviso in section 206 (a) (1) of this title, no person shall engage in any for-hire transportation business by motor vehicle, in interstate or foreign commerce, on any public highway or within any reservation under the exclusive jurisdiction of the United States, unless there is in force with respect to such person a certificate or a permit issued by the Commission authorizing such transportation[.] *nor shall any person in any other commercial enterprise transport property by motor vehicle in interstate or foreign commerce unless such transportation is incidental to, and in furtherance of a primary business enterprise (other than transportation) of such person.*



S. 3778

[Report No. 1647]

IN THE SENATE OF THE UNITED STATES

MAY 8, 1958

Mr. SMATHERS introduced the following bill; which was read twice and referred to the Committee on Interstate and Foreign Commerce

JUNE 3, 1958

Reported by Mr. SMATHERS, with amendments

[Omit the part struck through and insert the part printed in italic]

A BILL

To amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the “Transportation Act of
4 1958”.

5 SEC. 2. Section 1 of the Interstate Commerce Act, as
6 amended, is amended (1) by inserting in subparagraph
7 (a) of paragraph (2) thereof, after the word “aforesaid”
8 and before the semicolon following that word, the words
9 “except as otherwise provided in this part” and (2) by

1 striking out the period at the end of the proviso in subpara-
2 graph (a) of paragraph (17) thereof and inserting in lieu
3 thereof the following "and except as otherwise provided in
4 this part."

5 SEC. 3. (a) The first sentence of paragraph (4) of
6 section 13 of the Interstate Commerce Act, as amended, is
7 amended to read as follows:

8 " (4) Whenever in any such investigation the Com-
9 mission, after full hearing, finds that any such rate, fare,
10 charge, classification, regulation, or practice causes any undue
11 or unreasonable advantage, preference, or prejudice as be-
12 tween persons or localities in intrastate commerce on the one
13 hand and interstate or foreign commerce on the other hand,
14 or any undue, unreasonable, or unjust discrimination against,
15 or undue burden on, interstate or foreign commerce (which
16 the Commission may find without considering in totality the
17 operations or results thereof of any carrier, or group or
18 groups of carriers wholly within any State), which is hereby
19 forbidden and declared to be unlawful, it shall prescribe the
20 rate, fare, or charge, or the maximum or minimum, or maxi-
21 mum and minimum, thereafter to be charged, and the clas-
22 sification, regulation, or practice thereafter to be observed,
23 in such manner as, in its judgment, will remove such ad-
24 vantage, preference, prejudice, discrimination, or burden:
25 *Provided*, That upon the filing of any petition authorized

1 by the provisions of paragraph (3) hereof to be filed by
2 the carrier concerned, the Commission shall forthwith insti-
3 tute an investigation as aforesaid into the lawfulness of such
4 rate, fare, charge, classification, regulation, or practice
5 (whether or not theretofore considered by any State agency
6 or authority and without regard to the pendency before any
7 State agency or authority of any proceeding relating thereto)
8 and shall give special expedition to the hearing and decision
9 therein.”

10 (b) Section 13 of the Interstate Commerce Act, as
11 amended, is amended by inserting after paragraph (4)
12 thereof a new paragraph (5) as follows:

13 “(5) In any proceeding before the Commission in-
14 volving an investigation of or authorization or permission for
15 a general adjustment in rates, fares, or charges, or any of
16 them, of carriers subject to this part for the transportation
17 of property or passengers, or both, in interstate commerce
18 throughout, or substantially throughout, the United States,
19 or one or more of the three major rate classification terri-
20 tories thereof (Official, Western, or Southern), any such
21 carrier or carriers parties thereto may by petition seek
22 authority or permission of the Commission for a comparable
23 adjustment of rates, fares, or charges for the transportation
24 of like property or passengers wholly within an individual
25 State or individual States. If, in such proceeding, the Com-

1 mission finds (as it is hereby authorized to do) that au-
2 thorizing or permitting an adjustment in interstate rates,
3 fares, or charges without authorizing or permitting a com-
4 parable adjustment in intrastate rates, fares, or charges would
5 cause, or create a circumstance of, advantage, preference,
6 prejudice, discrimination or burden declared in paragraph
7 (4) of this section to be unlawful, the Commission shall,
8 incident to any adjustment it may authorize or permit in
9 such interstate rates, fares, or charges, authorize or permit
10 a comparable adjustment in such intrastate rates, fares, or
11 charges. Pursuant to such authorization the said carrier
12 or carriers, upon making any adjustment so authorized or
13 permitted by the Commission in such interstate rates, fares,
14 or charges may without further authority make a comparable
15 adjustment in such intrastate rates, fares, or charges, and
16 adjustments so made in intrastate rates, fares, or charges
17 shall be observed while continued in effect by the said
18 carrier or carriers, the law of any State or the decision or
19 order of any State authority to the contrary notwithstand-
20 ing.”

21 SEC. 4. The Interstate Commerce Act, as amended, is
22 amended by inserting after section 13 thereof a new section
23 13a as follows:

24 “SEC. 13a. A carrier or carriers subject to this part, if their
25 rights with respect to the discontinuance or change, in whole or

1 in part, of the operation or service of any train or ferry
2 engaged in the transportation of passengers or property in
3 interstate, foreign, and intrastate commerce, or any of them,
4 or of the operation or service of any station, depot or other
5 facility where passengers or property are received for trans-
6 portation in interstate, foreign and intrastate commerce, or
7 any of them, are subject to any provision of the constitution
8 or statutes of any State or any regulation or order of (or
9 are the subject of any proceeding pending before) any court
10 or an administrative or regulatory agency of any State, may,
11 but shall not be required to, file with the Commission, mail
12 to the Governor of each State in which such train, ferry,
13 station, depot or other facility is operated, and post in every
14 station, depot or other facility directly affected thereby,
15 notice at least thirty days in advance of any such proposed
16 discontinuance or change. The carrier or carriers filing such
17 notice may discontinue or change any such operation or serv-
18 ice pursuant to such notice except as otherwise ordered by
19 the Commission pursuant to this section, the laws or con-
20 stitution of any State, or the decision or order of, or the
21 pendency of any proceeding before, any court or State au-
22 thority to the contrary notwithstanding. Upon the filing
23 of such notice the Commission shall have authority during
24 said thirty days' notice period, either upon complaint or
25 upon its own initiative without complaint, to enter upon an

1 investigation of the proposed discontinuance or change.
2 Upon the institution of such investigation, the Commission,
3 by order served upon the carrier or carriers affected thereby
4 at least ten days prior to the day on which such discontinu-
5 ance or change would otherwise become effective, may
6 require such train, ferry, station, depot or other facility to be
7 continued in operation or service, in whole or in part,
8 pending hearing and decision in such investigation, but not
9 for a longer period than four months beyond the date when
10 such discontinuance or change would otherwise have become
11 effective. If, after hearing in such investigation, whether
12 concluded before or after such discontinuance or change has
13 become effective, the Commission finds that the operation
14 or service of such train, ferry, station, depot or other facility
15 is required by public convenience and necessity and that
16 such operation or service will not result in a net loss there-
17 from to the carrier or carriers and will not otherwise unduly
18 burden interstate or foreign commerce, the Commission may
19 by order require the continuance or restoration of operation
20 or service of such train, ferry, station, depot or other facility,
21 in whole or in part, for a period not to exceed one year from
22 the date of such order. The provisions of this section shall
23 not supersede the laws of any State or the orders or regula-
24 tions of any administrative or regulatory body of any State

1 applicable to such discontinuance or change unless notice
 2 as in this section provided is filed with the Commission.
 3 On the expiration of an order by the Commission after such
 4 investigation requiring the continuance or restoration of
 5 operation or service, the jurisdiction of any State as to such
 6 discontinuance or change shall no longer be superseded
 7 unless the procedure provided by this section shall again
 8 be invoked by the carrier or carriers."

9 SEC. 5. Section 15a of the Interstate Commerce Act,
 10 as amended, is amended by inserting after paragraph (2)
 11 thereof a new paragraph (3) as follows:

12 ~~"(3) In a proceeding involving competition with an-~~
 13 ~~other mode of transportation, the Commission, in deter-~~
 14 ~~mining whether a rail-rate is lower than a reasonable mini-~~
 15 ~~mun rate, shall consider the facts and circumstances attend-~~
 16 ~~ing the movement of the traffic by railroad and not by such~~
 17 ~~other mode."~~

18 *"(3) In a proceeding involving competition between*
 19 *carriers of different modes of transportation subject to this*
 20 *Act, the Commission, in determining whether a rate is lower*
 21 *than a reasonable minimum rate, shall consider the facts*
 22 *and circumstances attending the movement of the traffic by*
 23 *the carrier or carriers to which the rate is applicable. Rates*
 24 *of a carrier shall not be held up to a particular level to*
 25 *protect the traffic of any other mode of transportation, giv-*

1 *ing due consideration to the objectives of the national trans-*
2 *portation policy declared in this Act."*

3 SEC. 6. The Interstate Commerce Act, as amended, is
4 hereby amended by inserting immediately after section 20c
5 thereof the following new section:

6 "SEC. 20d. (1) It is the purpose of this section to aid
7 common carriers by railroad subject to this part in rendering
8 proper transportation service to the public by providing tem-
9 porary financial assistance to them in obtaining funds to fi-
10 nance or refinance the acquisition or construction of equip-
11 ment or additions and betterments for use in transportation
12 service and in obtaining funds needed for operating expenses,
13 working capital, and interest on existing obligations, all to
14 the end of fostering the preservation and development of a
15 national transportation system adequate to meet the needs of
16 the commerce of the United States, of the postal service,
17 and national defense.

18 "(2) In order to carry out the purpose declared in this
19 section, the Commission, upon terms and conditions pre-
20 scribed by it and consistent with the provisions of this sec-
21 tion, may guarantee any lender, or trustee under a trust in-
22 denture or agreement for the benefit of the holders of any
23 securities issued thereunder, by commitment to purchase,
24 agreement to share losses, or otherwise, against loss of prin-
25 cipal or interest on any loan, discount, or advance, or on

1 any commitment in connection therewith, which may be
2 made for the purposes set forth in this section, except that
3 there shall be no guarantee of a loan to be used in reduction
4 of the principal of an obligation other than in connection
5 with the refinancing of an equipment obligation: *Provided*,
6 That in no event shall the aggregate of all loans guaranteed
7 by the Commission, including unpaid interest, exceed
8 \$700,000,000, of which no more than \$150,000,000 may be
9 loans for operating expenses and interest on existing
10 obligations.

11 “(3) Any such carrier may, prior to December 31,
12 1960, make application to the Commission, in such form as
13 the Commission may prescribe, requesting guaranty by the
14 Commission as herein authorized and setting forth the amount
15 and term of the loan to be guaranteed; the purpose of the
16 loan and the use to which the proceeds therefrom will be
17 applied; the inability of the applicant to obtain such funds
18 on reasonable terms without such guaranty; the character
19 and value of the security, if any, that the applicant will
20 pledge as collateral for the loan; and that the loan is neces-
21 sary or appropriate to effectuate the purpose of this section.
22 The application shall be accompanied by statements showing
23 in detail such facts as the Commission may require with
24 regard to the situation of the applicant. The Commission

1 shall give preference to and expedite the consideration of
2 any such application.

3 “(4) No guaranty shall be made under this section—

4 “(A) unless the Commission is of the opinion that
5 the proposed loan is necessary or appropriate to effectuate
6 the purpose of this section;

7 “(B) unless the Commission is of the opinion that
8 without such guaranty the applicant carrier would be
9 unable to obtain necessary funds, on reasonable terms,
10 for the purposes for which the loan is sought;

11 “(C) if the loan involved is at a rate of interest
12 which, in the judgment of the Commission, is unreason-
13 ably high, or if the terms of such loan permit full repay-
14 ment more than fifteen years after the date thereof;

15 “(D) unless the Commission is of the opinion that
16 the prospective earning power of the applicant carrier,
17 together with the character and value of the security
18 pledged, if any, furnish reasonable assurance of the ap-
19 plicant's ability to repay the loan within the time fixed
20 therefor and reasonable protection to the United States.

21 “(E) unless the Commission is of the opinion that
22 the applicant carrier is not in need of reorganization of
23 its capital structure.

24 “(F) unless the applicant carrier agrees that it will

1 declare no dividends on its capital stock as long as the
2 loan remains unpaid.

3 “(5) The Commission may consent to the modification
4 of the provisions as to rate of interest, time of payment of
5 interest or principal, security, if any, or other terms and
6 conditions of any guaranty which it shall have entered into
7 pursuant to this section, or the renewal or extension of any
8 such guaranty, whenever the Commission shall determine it
9 to be equitable to do so.

10 “(6) Payments required to be made as a consequence of
11 any guaranty by the Commission pursuant to the provisions
12 of this section shall be made by the Secretary of the Treasury
13 from funds hereby authorized to be appropriated in such
14 amounts as may be necessary for the purpose of carrying out
15 the provisions of this section.

16 “(7) The Commission shall prescribe and collect a
17 guaranty fee in connection with each loan guaranteed under
18 this section. Such fees shall not exceed such amounts as the
19 Commission estimates to be necessary to cover the admin-
20 istrative costs of carrying out the provisions of this section.
21 Sums realized from such fees shall be deposited in the Treas-
22 ury as miscellaneous receipts.

23 “(8) (a) To permit it to make use of such expert advice
24 and services as it may require in carrying out the provisions

1 of this section, the Commission may use available services
2 and facilities of departments and other agencies and instru-
3 mentalities of the Government, with their consent and on a
4 reimbursable basis.

5 “(b) Departments, agencies, and instrumentalities of
6 the Government shall exercise their powers, duties, and
7 functions in such manner as will assist in carrying out the
8 objectives of this section.

9 “(9) Administrative expenses under this section shall
10 be paid from appropriations made to the Commission for
11 administrative expenses.

12 “(10) Except with respect to such applications as may
13 then be pending, the authority granted by this section shall
14 terminate at the close of December 31, 1960: *Provided*,
15 That its provisions shall remain in effect thereafter for the
16 purposes of guaranties made by the Commission.”

17 SEC. 7. The Interstate Commerce Act, as amended, is
18 amended by inserting after section 25 thereof a new section
19 25a as follows:

20 “SEC. 25a. (1) It is hereby declared to be the gen-
21 eral policy of the Congress to promote and encourage, in
22 the interest of national defense and public welfare, the con-
23 struction, reconstruction, reconditioning, or acquisition of
24 equipment and other property used in the transportation
25 business by common carriers subject to the Interstate Com-

1 merce Act, and the retirement (in whole or in part) of debt
2 incurred, after the effective date of this section, for such pur-
3 poses. It is the purpose of this section to provide imple-
4 mentation of this general policy through the establishment
5 by any such carrier of a construction reserve fund, with the
6 privileges and subject to the limitations herein prescribed.
7 Such construction reserve fund shall be established, main-
8 tained, expended, and used in accordance with the provisions
9 of this section and rules or regulations to be prescribed by
10 the Interstate Commerce Commission and the Secretary of
11 the Treasury *and under the joint control of the carrier and*
12 *the Commission.* Such fund shall be maintained in a separate
13 cash deposit or in obligations of the United States or any
14 agency thereof.

15 “(2) All earnings of the fund shall be deposited in the
16 fund. Such earnings may be withdrawn by the carrier only
17 for expenditures for the purposes established in paragraph
18 (1) of this section *and only after the expenditure for the*
19 *purposes established in paragraph (1) of this section of the*
20 *principal amount on which such earnings accrued.* If such
21 earnings are not expended for such purposes within five
22 years from the date of deposit *of such earnings* in the fund,
23 85 per centum of such earnings shall be paid to the United
24 States as a tax, in lieu of any other tax which may be
25 applicable to such earnings.

1 “(3) In computing the taxable income under section 63
2 (a) of the Internal Revenue Code of 1954, as amended, of
3 any common carrier subject to this Act there shall be allowed
4 as a deduction, in addition to the deductions specified in that
5 Code, the amounts deposited in the said construction reserve
6 fund prior to the filing of the income tax return of such
7 common carrier for such *fifteenth day of the third month*
8 *following the end of such common carrier's* taxable year,
9 without limitation except that the deduction allowed pur-
10 suant to this section shall not exceed in any one year an
11 amount equal to the depreciation recorded in the operating
12 expense accounts for such year under the provisions of the
13 uniform system of accounts prescribed by the Interstate
14 Commerce Commission.

15 ~~“(4) In computing the gross income under section 64~~
16 ~~(a) of the Internal Revenue Code of 1954, as amended, of~~
17 any common carrier subject to this Act there shall be in-
18 cluded all amounts withdrawn during the taxable year from
19 the said construction reserve fund for purposes other than
20 those specified in paragraph ~~(1)~~ of this section: *Provided,*
21 That any amount deposited in the reserve fund which shall
22 be permitted to remain in such fund for five years after hav-
23 ing been deposited therein shall be considered to have been
24 so withdrawn from such fund on the first day following the
25 expiration of such five-year period. Such amounts shall be

1 subject to tax at the rate or rates and shall be subject to
2 the provisions of the Internal Revenue Code of 1954, as
3 amended, applicable to the year in which such amounts were
4 deducted under paragraph (3) of this section (including
5 the interest provisions of such Code as amended, as if a tax
6 deficiency for such year, whether or not a tax deficiency
7 would exist for such year otherwise). For the purpose of
8 this section, any amounts expended or withdrawn from the
9 reserve fund shall be applied against amounts deposited
10 therein in order of the deposits.

11 “(4) In computing the gross income under section 61
12 (a) of the Internal Revenue Code of 1954, as amended, of
13 any common carrier subject to this Act there shall be in-
14 cluded all principal amounts—

15 “(a) withdrawn during the taxable year from the
16 said construction reserve fund for purposes other than
17 those specified in paragraph (1) of this section, and

18 “(b) deposited in the reserve fund which shall be
19 permitted to remain in such fund for five years after
20 having been deposited therein shall be considered to have
21 been so withdrawn from such fund on the first day fol-
22 lowing the expiration of such five-year period.

23 All such principal amounts shall be subject to tax at the rate
24 or rates and shall be subject to the provisions of the Internal
25 Revenue Code of 1954, as amended, applicable to the taxable

1 year in which such amounts were deducted in computing
2 taxable income pursuant to paragraph (3) of this section in-
3 cluding the interest under section 6601 of such Code as
4 amended, as if a tax deficiency had existed for the year for
5 which the deduction was taken, whether or not a tax de-
6 ficiency would otherwise exist for such year. For the pur-
7 pose of this section, any principal amounts expended or with-
8 drawn from the reserve fund shall be applied against prin-
9 cipal amounts deposited therein in order of the deposits.

10 “ (5) The regulations prescribed by the Interstate Com-
11 merce Commission and the Secretary of the Treasury, pur-
12 suant to paragraph (1) hereof, shall provide that no amounts
13 may be withdrawn from the construction reserve fund ex-
14 cept (a) for the uses prescribed in paragraph (1) hereof
15 or (b) upon payment to the Secretary of the Treasury
16 of the tax ~~deficiency~~ liability arising thereon as computed
17 under paragraph (4) hereof.

18 “ (6) Amounts on deposit in a construction reserve fund
19 shall not be considered an accumulation of earnings and
20 profits for the purposes of part I, subchapter G, chapter I,
21 of the Internal Revenue Code of 1954, as amended.

22 “ (7) The basis for determining gain or loss and for de-
23 preciation, for the purposes of Federal taxes, of any property
24 constructed, reconstructed, reconditioned, or acquired by the
25 taxpayer, in whole or in part, out of the construction reserve

1 fund, shall be reduced by ~~that portion of the deposits in the~~
 2 *the amount from the construction reserve* fund expended in
 3 the construction, reconstruction, reconditioning, or acqui-
 4 sition of such property, or expended to retire debt incurred
 5 for such purposes after the effective date hereof: *Provided,*
 6 That no expenditures shall be made from such fund for such
 7 purposes in excess of the then adjusted basis of the property
 8 to which such indebtedness relates.

9 “(8) Qualifying expenditures under this section shall
 10 include only expenditures which are chargeable to the ac-
 11 counts prescribed and approved by the Interstate Commerce
 12 Commission to show the investment of a common carrier
 13 subject to this Act in property devoted to transportation
 14 service.”

15 SEC. 8. (a) Clause (6) of subsection (b) of section
 16 203 of the Interstate Commerce Act, as amended, is amended
 17 by striking out the semicolon at the end thereof and
 18 inserting in lieu thereof a colon and the following: “*Pro-*
 19 *vided,* That the words ‘property consisting of ordinary
 20 livestock, fish (including shellfish), or agricultural (in-
 21 cluding horticultural) commodities (not including manu-
 22 factured products thereof)’ as used herein shall include ~~only~~
 23 ~~these commodities~~ *property* shown as ‘Exempt’ in the ‘Com-
 24 modity List’ incorporated in ruling numbered 107, March
 25 19, 1958, Bureau of Motor Carriers, Interstate Commerce

1 Commission, *but shall not include property shown therein as*
 2 *'Not exempt': Provided further, however, That notwith-*
 3 *standing the preceding proviso the words 'property consist-*
 4 *ing of ordinary livestock, fish (including shellfish), or*
 5 *agricultural (including horticultural) commodities (not*
 6 *including manufactured products thereof)' shall not be*
 7 *deemed to include frozen fruits, frozen berries, or frozen*
 8 *vegetables ; or property imported from any foreign country ;"*
 9 *and shall be deemed to include cooked or uncooked (includ-*
 10 *ing breaded) fish or shellfish, when frozen or fresh ;"*

11 (b) Unless otherwise specifically indicated therein, the
 12 holder of any certificate or permit heretofore issued by the
 13 Interstate Commerce Commission, or hereafter so issued
 14 pursuant to an application filed on or before the date on
 15 which this section takes effect, authorizing the holder thereof
 16 to engage as a common or contract carrier by motor vehicle
 17 in the transportation in interstate or foreign commerce of
 18 property made subject to the provisions of part II of the
 19 Interstate Commerce Act by paragraph (a) of this section,
 20 over any route or routes or within any territory, may without
 21 making application under that Act engage, to the same
 22 extent and subject to the same terms, conditions and limi-
 23 tations, as a common or contract carrier by motor vehicle,
 24 as the case may be, in the transportation of such property,

1 over such route or routes or within such territory, in inter-
2 state or foreign commerce.

3 (c) Subject to the provisions of section 210 of the
4 Interstate Commerce Act, if any person (or its predecessor
5 in interest) was in bona fide operation on January 1, 1958,
6 over any route or routes or within any territory, ~~as a common~~
7 ~~or contract carrier~~ *as a common, contract, or exempt carrier*
8 engaged in the transportation of property by motor
9 vehicle made subject to the provisions of part II of that
10 Act by paragraph (a) of this section, in interstate or
11 foreign commerce, and has so operated since that time (or
12 if engaged in furnishing seasonal service only, was in bona
13 fide operation on January 1, 1958, during the season
14 ordinarily covered by its operations and has so operated
15 since that time), except in either instance as to interruptions
16 of service over which such applicant or its predecessor in
17 interest had no control, the Interstate Commerce Commis-
18 sion shall without further proceedings issue a certificate or
19 permit, as the case may be, authorizing such operations if
20 application therefor is made to the said Commission as pro-
21 vided in part II of the Interstate Commerce Act and within
22 one hundred and twenty days after the date on which this
23 section takes effect. Pending the determination of any such
24 application, the continuance of such operation without a

1 certificate or permit shall be lawful. Any carrier which on
2 the date this section takes effect is engaged in an operation
3 of the character specified in the foregoing provisions of this
4 paragraph, but was not engaged in such operation on January
5 1, 1958, may under such regulations as the Interstate Com-
6 merce Commission shall prescribe, if application for a cer-
7 tificate or permit is made to the said Commission within one
8 hundred and twenty days after the date on which this section
9 takes effect, continue such operation without a certificate or
10 permit pending the determination of such application in
11 accordance with the provisions of part II of the Interstate
12 Commerce Act.

13 SEC. 9. Subsection (c) of section 203 of the Interstate
14 Commerce Act, as amended, is amended by striking out
15 the period at the end thereof and inserting in lieu thereof
16 the following: "nor shall any person in any other commer-
17 cial enterprise transport property by motor vehicle in inter-
18 state or foreign commerce unless such transportation is ~~solely~~
19 ~~within the scope~~ *incidental to*, and in furtherance of, a
20 primary business enterprise (other than transportation) of
21 such person."

85TH CONGRESS
2D Session

S. 3778

[Report No. 1647]

A BILL

To amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes.

By Mr. SMATHERS

MAY 8, 1958

Read twice and referred to the Committee on
Interstate and Foreign Commerce

JUNE 3, 1958

Reported with amendments



Congressional Record

United States
of America

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WASHINGTON, TUESDAY, JUNE 3, 1958

No. 88

Senate

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

O Lord of our pilgrim years, the day returns and brings us the round of its concerns and duties. As in Thy sight these servants of this land of our hope and prayer stand in posts of high public office, make them solemnly conscious that their thoughts and attitudes, their words and acts, are not their own, but go out from this Chamber, set as a light on a hill, to influence and to mold the whole structure of human relationships around the world. Help them in all things to be masters of themselves, that they may be the servants of others.

In these times of tension and strain, save us all from minding and magnifying little slights and stings, or giving them. Keep us calm in temper, clear in mind, sound of heart, in spite of ingratitude, misrepresentation, or even treachery. Enable us, we pray Thee, to perform faithfully and well what Thou dost require, even to do justly and to love mercy and to walk humbly with Thee, our God. In the dear Redeemer's name. Amen.

THE JOURNAL

On request of Mr. TALMADGE, and by unanimous consent, the reading of the Journal of the proceedings of Monday, June 2, 1958, was dispensed with.

MESSAGES FROM THE PRESIDENT— APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries, and he announced that on May 29, 1958, the President had approved and signed the following acts:

S. 728. An act to authorize the acquisition of certain property in square 724 in the District of Columbia for the purpose of extension of the site of the additional office building for the United States Senate or for the purpose of addition to the United States Capitol Grounds;

S. 847. An act to amend the act of June 5, 1944, relating to the construction, operation, and maintenance of Hungry Horse Dam, Mont.;

S. 2557. An act to amend the act granting the consent of Congress to the negotiation of certain compacts by the States of Nebraska, Wyoming, and South Dakota in order to extend the time for such negotiation;

S. 2813. An act to provide for certain credits to the Salt River Valley Water Users' Association and the Salt River Project Agricultural Improvement and Power District in consideration of the transfer to the Government of property in Phoenix, Ariz.;

S. 3087. An act to provide for the establishment of Fort Clatsop National Memorial in the State of Oregon, and for other purposes; and

S. 3371. An act to amend the act of August 25, 1916, to increase the period for which concessionaire leases may be granted under that act from 20 years to 30 years.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

COMMITTEE MEETINGS DURING SENATE SESSION

On request of Mr. TALMADGE, and by unanimous consent, the Railroad Retirement Subcommittee and the Labor Subcommittee of the Committee on Labor and Public Welfare were authorized to meet today during the session of the Senate.

On request of Mr. BRICKER, and by unanimous consent, the Committee on Interstate and Foreign Commerce was authorized to meet at 2:30 p. m. during the session of the Senate this afternoon to consider proposed legislation on the subject of regulation of radio and television networks.

LIMITATION OF DEBATE DURING MORNING HOUR

Mr. TALMADGE. Mr. President, under the rule, there will be the usual morning hour, for the introduction of bills and the transaction of other routine business. I ask unanimous consent

that statements in connection therewith be limited to 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT ON ADMINISTRATION OF SUBVERSIVE ACTIVITIES CONTROL ACT OF 1950

A letter from the Attorney General, transmitting, pursuant to law, his report on the administration of the Subversive Activities Control Act of 1950 (with an accompanying report); to the Committee on the Judiciary.

ADJUSTMENT OF IMMIGRATION STATUS OF A CERTAIN ALIEN

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a copy of an order entered in behalf of Huilan Koo, relating to adjustment of immigration status (with an accompanying paper); to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the PRESIDENT pro tempore:

The petitions of Mrs. H. G. Carroll, and Mrs. Carrie Parnell, both of Baldwin Park, Calif., relating to the Presidential veto of the omnibus rivers and harbors bill; to the Committee on Public Works.

A telegram in the nature of a petition from David G. Hunt, president, National Federation of Federal Employees, of Pasadena, Calif., praying for early action by the Senate on the amendment of the House to Senate bill 734, the classified employees' pay bill; ordered to lie on the table.

IMPROVEMENT OF THE NATIONAL TRANSPORTATION SYSTEM—RE- PORT OF A COMMITTEE (S. REPT. NO. 1647)

Mr. SMATHERS. Mr. President, from the Committee on Interstate and Foreign Commerce, I report favorably with amendments, the bill (S. 3778) to amend the Interstate Commerce Act, as amended, so as to strengthen and improve the

national transportation system, and for other purposes, and I submit a report thereon.

I ask unanimous consent that the individual views of the Senator from Connecticut [Mr. PURCELL] and the Senator from Ohio [Mr. LAUSCHE] be printed with the report.

The PRESIDENT pro tempore. The report will be received and printed, as requested by the Senator from Florida, and the bill will be placed on the calendar.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WILEY:

S. 3930. A bill to amend section 416 of the Agricultural Act of 1949, as amended; to the Committee on Agriculture and Forestry.

(See the remarks of Mr. WILEY when he introduced the above bill, which appear under a separate heading.)

By Mr. MURRAY:

S. 3931. A bill for the relief of Olivia Mary Galante; to the Committee on the Judiciary.

By Mr. YARBOROUGH:

S. 3932. A bill to provide for Federal assistance for the construction and expansion of public community junior colleges; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. YARBOROUGH when he introduced the above bill, which appear under a separate heading.)

RESOLUTION

Mr. NEUBERGER (for himself, Mr. GREEN, Mr. HILL, Mr. SPARKMAN, Mr. KENNEDY, Mr. JAVITS, Mr. LONG, Mr. CLARK, and Mr. HUMPHREY) submitted a resolution (S. Res. 312) to establish a Select Committee on Foreign Economic Policy, which was referred to the Committee on Foreign Relations.

(See the above resolution printed in full where it appears under a separate heading.)

AMENDMENT OF AGRICULTURAL ACT OF 1949, RELATING TO INCREASED DISTRIBUTION OF SURPLUS FOOD TO NEEDY PEOPLE

Mr. WILEY. Mr. President, I introduce, for appropriate reference, a bill to expand the programs for distributing surplus food to needy people.

The proposed legislation would amend section 416 of the Agricultural Act of 1949, as amended. It would provide Federal funds for one-half the costs incurred in certifying individuals and families as recipients of surplus foods.

As we know, a tremendous number of needy people in the Nation would benefit greatly from access to surplus foods. In Wisconsin, for example, more than 11,000 needy persons are now receiving food through special plans operating in over a dozen counties. In addition, several other areas are preparing to participate. Nationally, approximately 1,079 counties are carrying on a program of distributing surplus foods.

Unfortunately, the offices that certify needy people are often understaffed and overworked. This acts as a deterrent to

making foodstuffs available to additional needy persons. The addition of only one more certifying officer—for which the Federal Government would provide one-half the cost—would help in some areas to make this food available to many more persons.

Today, too, a no-man's land exists for individuals and families not eligible for assistance under other programs. These include the unemployed, handicapped, and persons temporarily distressed economically, through personal misfortune or natural disaster, and others. If these persons could be eligible to receive surplus food, it would at least help to "tide them over." This proposal would help to eliminate this no-man's land.

Currently, about 5.2 billion worth of farm commodities—including dairy products—are held by the Commodity Credit Corporation as so-called surpluses. At the same time, there are still a large number of hungry people in the Nation. This situation is unjustifiable.

We realize, of course, that it is important not to interfere with normal trade channels, by flooding the market with surpluses. Thus, the program should be confined to those who are in need, and who could not otherwise afford to supplement their diets adequately.

The expense of providing this additional support for the food-distribution program would be extremely small, especially in comparison to its humanitarian benefits.

This cost-sharing proposal, I believe, will encourage participation in communities which otherwise might not undertake to provide their needy people with the available surplus foods.

The Department of Health, Education, and Welfare would administer the program on a basis similar to that of such programs for the aged, blind, and disabled, as now carried out by that agency.

As we are aware, section 416 of the Agricultural Act of 1949, which my proposal would amend, deals with distribution and desisemination of surplus commodities.

Currently, the Agriculture Committees in both the Senate and House of Representatives are working together on an omnibus farm bill. This bill for increasing the distribution of surplus commodities to needy people, justifiably can, and should, I believe, be incorporated in such a measure.

If my bill is enacted—as I believe it should be—it will help to achieve two important objectives:

First, it will step up the disposal of price-depressing surpluses; and,

Second, it will feed hungry people.

Mr. President, I request unanimous consent to have this brief bill printed at this point in the RECORD.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3930) to amend section 416 of the Agricultural Act of 1949, as amended, introduced by Mr. WILEY, was received, read twice by its title, referred

to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

Be it enacted, etc., That section 416 of the Agricultural Act of 1949, as amended, is amended by inserting "(a)" after "Sec. 416." and by adding at the end thereof the following new subsection:

"(b) There are hereby authorized to be appropriated such sums as may be necessary to enable the Secretary of Health, Education, and Welfare to pay to each State one-half of the total of the sums found by him to have been expended on or after July 1, 1958, by State and local public welfare organizations in such State in the proper and efficient administration of the procedures employed by such organizations for the certification of needy persons to receive food commodities made available under the provisions of this section. Payments under the provisions of this subsection may be made either in advance or by way of reimbursement, as may be determined by the Secretary of Health, Education, and Welfare; and shall be made in such installments and on such conditions as he deems advisable."

AUTHORIZATION FOR CERTAIN PUBLIC WORKS ON RIVERS AND HARBORS—AMENDMENTS

Mr. BUSH submitted amendments, intended to be proposed by him, to the bill (S. 3910) authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes, which were referred to the Committee on Public Works, and ordered to be printed.

AMENDMENT OF INTERNAL REVENUE CODE OF 1954, TO CORRECT UNINTENDED BENEFITS AND HARDSHIPS—AMENDMENTS

Mr. PROXMIRE. Mr. President, I submit for appropriate reference an amendment to House bill 8381, the Technical Amendments Act of 1957, so as to prohibit the allowance as a business expense, deductible for income-tax purposes, of an expense incurred in the conduct of an illegal gambling enterprise.

The PRESIDENT pro tempore. The amendment will be received, printed, and referred to the Committee on Finance.

Mr. PROXMIRE. Mr. President, I submit for appropriate reference an amendment to House bill 8381, the Technical Amendments Act of 1957, so as to reduce the percentage depletion allowance for oil and gas wells from 27½ percent to 15 percent, and to reduce the allowance for sulfur and uranium and about a score of minerals and metals from 23 percent to 15 percent.

The percentage depletion allowance for the oil and gas industry is, in my opinion, the biggest of all tax loopholes, and amounts, in effect, to a subsidy of \$1½ billion a year.

Exclusive of the depletion allowance, the oil industry is allowed to write off all developmental, drilling, and operating costs tax free against net income. It can also charge off the cost of drilling unsuccessful wells or dry holes. These allowances are proper costs of doing business. But the additional allowance of 27½ per-

June 28, 1940; to the Committee on the Judiciary.

H. R. 12164. An act to permit use of Federal surplus foods in nonprofit summer camps for children; to the Committee on Agriculture and Forestry.

H. R. 12575. An act to provide for research into problems of flight within and outside the earth's atmosphere, and for other purposes; to the Special Committee on Space and Astronautics.

HOUSE CONCURRENT RESOLUTION REFERRED

The concurrent resolution (H. Con. Res. 332) relative to the establishment of plans for the peaceful exploitation of outer space, was referred to the Committee on Foreign Relations, as follows:

Whereas man is standing upon the threshold of a new era of space exploration; and

Whereas it is the devout wish of all peoples everywhere, in every nation, in every environment, that the exploration of outer space shall be by peaceful means and shall be dedicated to peaceful purposes; and

Whereas the United States as a nation and as a people favors the peaceful solution of all international problems: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress of the United States believes that the nations of the world should join in the establishment of plans for the peaceful exploration of outer space, should ban the use of outer space for military aggrandizement, and should endeavor to broaden man's knowledge of space with the purpose of advancing the good of all mankind rather than for the benefit of one nation or group of nations;

That it is the sense of the Congress:

That the United States should strive, through the United Nations or such other means as may be most appropriate, for an international agreement banning the use of outer space for military purposes;

That the United States should seek through the United Nations or such other means as may be most appropriate an international agreement providing for joint exploration of outer space and establishing a method by which disputes which arise in the future in relation to outer space will be solved by legal, peaceful methods, rather than by resort to violence;

That the United States should press for an international agreement providing for joint cooperation in the advancement of scientific developments which can be expected to flow from the exploration of outer space, such as the improvement of communications, the betterment of weather forecasting, and other benefits; and

That the Congress respectfully requests the President to effectuate in every way possible the objectives set forth in this resolution.

MUTUAL SECURITY ACT OF 1958

The PRESIDING OFFICER (Mr. TALMADGE in the chair). Is there further morning business? If not, morning business is closed.

The Chair lays before the Senate the unfinished business, which will be stated by title.

The LEGISLATIVE CLERK. A bill (H. R. 15181) to amend further the Mutual Security Act of 1954, as amended, and for other purposes.

NECESSITY FOR REPEAL OF 3 PERCENT EXCISE TAX ON FREIGHT AND 10 PERCENT EXCISE TAX ON TRANSPORTATION

Mr. SMATHERS. Mr. President, last week, President Eisenhower declared his resolve to hold the line against tax reductions for the present, except for some minor adjustments in favor of small business.

This policy has been endorsed, with reservations, by the leaders of both parties, in part, I suppose, because of the likely Presidential veto of any general tax reduction.

I have my own reservations about the wisdom of this Presidential decision. It seems to me to ignore the very real dangers of an unarrested recession, with its debilitating effects not merely on our own economy, but that of our friends around the world.

It has been graphically and truthfully stated that when "America's economy sneezes, that of our allies quickly catches a cold."

However, I leave aside today the discussion of general tax policy to consider the merits of a single aspect of our present tax program. I refer to the repeal of the excise tax on transportation charges of persons and property. I believe this tax should be abolished, now, in spite of the economic truce, which has been entered into. I hope in the next few minutes to make clear the reasons why.

Before considering the legislative history of this tax, I should like to say that I am one of those who believe that there should be a general reduction of almost all the excise taxes in the interest of stimulating business and strengthening our economy.

However, it is clear from the truce which has been entered into by the President, Secretary of the Treasury, and the leaders of both parties that we cannot expect to have a broad-scale tax reduction, even a broad-scale excise-tax reduction, this year.

So, I am directing my efforts and my attention toward the elimination of this particular excise tax on transportation charges as the most iniquitous and the one most deserving of quick removal.

Mr. President, I have been directed by the Senate Interstate and Foreign Commerce Committee to present an amendment seeking repeal of the excise tax on transportation charges.

The amendment has been sponsored by the members of the Interstate and Foreign Commerce Committee of the Senate. However, in the past 3 weeks I have written to every Senator advising him of the proposed amendment and seeking his cosponsorship of it. I can report that a total of some 46 Senators have indicated their willingness to cosponsor the amendment.

Some of the letters from my fellow Senators were received prior to the announcement of the President last week, and it may be that the President's an-

nouncement will cause some Senators to change their position with respect to the repeal of the transportation tax. It is for that reason that I shall not announce the list of cosponsors at this time, but leave it to each individual Senator to make known his position in his own way.

The excise tax on transportation charges is distinguished from other excise taxes in this one particular: It applies to everybody and everything. It is a tax on the transportation of people, food, medicine, clothing, machinery, gasoline, and almost every other item that goes into our daily living.

It is a tax whose baneful influences are felt from the top to the bottom of our economy and from every crossroad into the middle of every giant city.

It is a tax which was imposed during wartime for the purpose of discouraging transportation of persons and of freight; it was to constitute a drag upon the civilian economy, and that is exactly what it is doing.

Mr. President, let us examine briefly the history of the excise tax on transportation charges.

As we all know, it was first imposed immediately prior to our entering World War II. It was one of a group of excises suggested by the Treasury Department. I should like now to quote from the statement of Henry Morgenthau, Jr., the then Secretary of the Treasury, made before the House Committee on Ways and Means on April 24, 1941. This statement begins on page 3, volume I, of the hearings:

Secretary MORGENTHAU. I have come before you today to discuss with you the need of producing \$3.5 billion annually in additional revenue for the defense of our country. Such an increase is without precedent, but the situation confronting us today is also without parallel. * * *

The problem of building our defense is fundamentally a problem of production. We cannot build planes and tanks, ships, and guns, merely by voting money. We build them with labor and management, with raw materials and machinery. The resources now employed in the defense industries are not enough to produce the guns and tanks and ships and planes that we need to carry out the program to which we are already committed. We must hasten the reemployment of our idle resources. Even this increase will not be enough. As we closely approach full employment of our resources, we must take the next step of diverting to defense production more and more of the resources now engaged in satisfying our civilian needs and wants.

The tax program now before you is designed to promote these very objectives.

First of all, it presents a method of paying as we go for a reasonable proportion of our expenditures.

Secondly, it is designed so that all sections of the people shall bear their fair share of the burden.

Thirdly, it will help to mobilize our resources for defense by reducing the amount of money that the public can spend for comparatively less important things. * * *

The Treasury is prepared to suggest tax revisions of which the most important features are an increase of income-tax rates, a lowering of the minimum income subject to surtax, an increase in excess-profits tax,

and finally, new excise taxes on a number of commodities which are not essential to the defense program.

Quite plainly, then, the passenger excise tax was proposed mainly for two purposes—first, to raise revenue; second, to discourage passenger travel.

The second point was borne down upon rather heavily during the hearings in a statement by Leon Henderson, then the Administrator of the Office of Price Administration and Civilian Supply.

Henderson did not like certain of the Treasury's excise recommendations. His testimony reads in part—page 645:

Turning first to the proposals for excise taxes, the only case which may be made out for such additional taxation at the present time from a total defense point of view must rest upon its effectiveness in discouraging civilian production which competes with the defense program for men, materials and machines.

I have divided the excise-tax proposals of the Treasury into three groups. First, taxes on goods and services of mass consumption which in no way compete with the defense program. These are deflationary, unnecessary, and highly inequitable. Second, taxes on luxury items which likewise do not compete with the defense program. These are deflationary and unnecessary, but they are not so objectionable from the viewpoint of equity. And third, taxes on articles, such as automobiles and refrigerators—a whole range of things—which compete very heavily for materials, productive facilities, and skills with defense production. This is the type of excise which is called for today.

Asked later in the hearing which items belonged in which category, Mr. Henderson replied—page 662:

In what I would call the luxury items, where I am not particularly concerned—I would say wines and cordials and liqueurs, sporting goods, jewelry, furs, club dues, trunks, safe-deposit boxes and things like that—I do not think there is going to be competition there, but I would not particularly object to the kind of tax that the Treasury is proposing to put on.

Where I would sock them is in automobiles and motorcycles, auto parts and accessories, secondhand cars, tires and tubes, photographic apparatus, clocks, watches, mechanical refrigerators, phonographs, radio sets, washing machines, and passenger transportation. I have a little doubt about the passenger transportation, and I would like to drop that one out until I have studied it a little more.

In 1942, with the war in progress, the passenger excise tax was doubled and the freight excise tax newly imposed. By this time, the Treasury had accepted Henderson's thesis, and the tax that year was unmistakably designed not only to raise money, but also to discourage the civilian use of the railroads and other common carriers.

Mr. President, we can all remember that the carrier-transportation industry itself cooperated in a program to discourage unnecessary travel. Billboards, posters, and newspaper advertisements all over the country solemnly inquired: "Is this trip necessary?"

The effect of the campaign was to discourage all forms of transportation, not simply common-carrier transportation. The passenger-freight excises helped slow down the use of for-hire vehicles. But meanwhile, gas and tire rationing

effectively eliminated long-distance travel by private carrier.

Mr. GORE. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. GORE. The Senator from Florida has said that the effect of the campaign was to discourage all forms of transportation. Was not that the effect of the tax and the campaign?

Mr. SMATHERS. I agree with the Senator; it was a combination of both. The tax probably did more to discourage the use of transportation facilities than did the advertisements. But the common carriers themselves were cooperating by asking the potential travelers: "Is this trip necessary?"

Mr. GORE. Is it not true that the intended effect of the tax and the program, indeed their very purpose was to repress traveling entirely?

Mr. SMATHERS. The Senator is entirely correct. The tax and the program were designed to stop the civilian use of transportation facilities so that the facilities could be devoted to the war effort.

Mr. GORE. The Senator from Florida is ably making the point, without indulging in an understatement, that these measures had a repressive influence.

Mr. SMATHERS. That is absolutely correct. I shall speak at some length about that in a few moments. I appreciate what the junior Senator from Tennessee said yesterday concerning the whole subject of excise taxes. I know, from my association with him on the Committee on Finance, that he thoroughly understands the importance to our economy of the removal of some of these taxes, if not all of them.

Certainly the transportation tax, as I said earlier, is one which affects every facet of our daily living. It is a tax on medicine, on clothes, on automobiles. It is imposed on every article which is in daily use. Therefore, it is the kind of force which is weighing very heavily on our economy today, as the Senator from Tennessee says.

As I have stated, Mr. President, there was no discrimination in the imposition of the excise tax on competitive forms of consumption.

During World War I, when Congress imposed a similar system of taxes for similar purposes, it clearly intended them as emergency measures. And they were repealed effective January 1, 1922, by the Revenue Act of 1921, slightly more than 3 years after the war had ended.

The World War II taxes were likewise intended for emergency use only, as has been implicitly and explicitly acknowledged by spokesmen for each of the last three Presidents of the United States.

I have already quoted the statements of Henry Morgenthau and Leon Henderson, both of whom indicated, quite clearly I believe, that they were proposing temporary devices to suit emergency needs.

I may cite also the statement of President Harry S. Truman in his message to Congress of January 23, 1950:

The excise taxes are still substantially at their wartime levels. Some are depressing certain lines of business. Some burden consumption and fall with particular weight on low-income groups. Still others add to the cost of living by increasing business costs.

Earlier, the Treasury Department itself, in its report of December 19, 1947, on "Federal Excise Taxes on Transportation," said:

The prewar history of railroad rates indicates that coach travel is rather sensitive to changes in passenger rates. Accordingly, under normal conditions the profits of railroads may be affected substantially by the existence of the tax. Because of large fixed costs, a small decrease in passenger revenue can have an important effect on profits from passenger operations. Since railroads are again sharing deficits on passenger operations, any reduction in traffic resulting from the tax would add to their difficulties.

In any case, despite these admissions, and perhaps because of the Korean intervention, which again turned transportation taxes into an instrument of defense policy, nothing was done or has been done to rectify the situation. The emergency taxes were allowed to continue into the period of no emergency, with disastrous but clearly foreseeable results.

The ironic aspect of this situation is that the present administration, too, has stated its recognition of the problem. I ask unanimous consent to have printed at this point in the RECORD a revealing exchange between Representative EBERHARTER, of Pennsylvania, and Dr. Dan Throop Smith, special assistant to the Secretary of the Treasury. This exchange took place late in 1956 in hearings on excise taxes before a subcommittee of the House Committee on Ways and Means.

I shall not take the time now to read this statement in full. It will be available in the RECORD for the edification of my colleagues. I point out, however, that Dr. Smith conceded the excise tax on transportation charges had been designed to discourage travel and that their continuance harmed the transportation industries. But, he said, the Treasury Department favors "the continuation of those taxes until something better comes along. We are not doing it for the purpose of discouraging, and we regret that any tax, of course, has a discouraging effect."

The PRESIDING OFFICER. Is there objection to the request of the Senator from Florida?

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

Mr. EBERHARTER. * * * One of the discriminatory excise taxes, namely, that imposed on the transportation of property, there can be no question but that this tax favors some and hurts others. The economic burden and competitive hurdle for small shippers who must pay a higher freight rate than larger firms is only amplified by the tax. This is also true for shippers who are far from the distribution centers as compared to those nearby.

The ultimate discrimination, of course, is between the various classes of consumers who certainly bear the final burden. A man with

an income of \$5,000 a year most certainly pays more in proportion to his income than the man whose income is \$10,000 or \$20,000 a year.

Dr. SMITH. That is the position indicated by the President there; of course, it is still our position. On the other hand, after having examined the subject for something over 3½ years now, we do not have anything that we are ready to suggest as being preferable to the present system.

Mr. EBERHARTER. Then your answer is, as I take it, that it may not be economically sound, but it is the best thing we have at the present time.

Dr. SMITH. As of now, we know nothing better to support that.

Mr. EBERHARTER. * * * First, I want to ask you this: Was not one of the primary reasons for instituting the tax on transportation of freight and persons discouragement of shippers and a discouragement of train travel by passengers during the war emergency? Was that one of the primary reasons?

Dr. SMITH. I do not know. I was not here at the time, and, as I read the record, I think that was, shall we say, one of the things that made very fruitful revenue source more acceptable, but as to whether it was one of inherent logic I really do not know.

Dr. SMITH. I certainly would not say, if the implication is, do we in supporting the continuation of the tax favor a discouragement of travel and of the use of telephones, let me say promptly, "No"; that we do not favor the discouragement of that.

Mr. EBERHARTER. I certainly cannot agree with you on that, because every added burden of cost helps discourage the use.

Dr. SMITH. * * * I said in favoring the continuation of those taxes until something better comes along, we are not doing it for the purpose of discouraging, and we regret that any tax, of course, has a discouraging effect upon an activity if it is an income tax, or upon a form of consumption if it is an excise tax. * * * Those taxes bring in a good many hundreds of millions of dollars a year, and the elimination of those, in view of all the other taxes which it would be desirable to reduce or eliminate, we just do not see that a priority should go to those.

Mr. EBERHARTER. * * * Even if the transportation tax is most discriminatory, and even if it is economically unsound, you still believe and it is the position of the Treasury that we should still keep it in force.

Mr. EBERHARTER (continuing). Solely on the ground that we need the revenue?

Dr. SMITH. I think that there is a matter of degree as to how discriminatory and how bad the effects are. * * * You referred to a discrimination that exists between long shipments and short shipments and those who pay somewhat higher freight rates because they ship in small quantities.

Mr. EBERHARTER. And there is one further discrimination * * *. Large concerns, it has been testified here, have their own transportation system and pay no tax on freight at all, whereas the small shipper must use the common carrier and he has to pay this 3-percent tax.

Dr. SMITH. That is the discrimination you mentioned.

Mr. EBERHARTER. This is a terrific discrimination.

Dr. SMITH. That, I think, is the significant one.

Mr. EBERHARTER. * * * Your general answer is that you favor continuation of all these excise taxes now on the books?

Dr. SMITH. Until we see a better way of getting the money; yes, sir.

Dr. SMITH. Up to now we have not been able to find a better way.

Mr. SMATHERS. Let us pause briefly to take stock. What do we have?

A tax which was imposed in wartime as an emergency device for two essential purposes: first, to raise revenue, and, second, to conserve a vital defense industry for defense purposes. It was not intended to redistribute the tax burden. It was not intended to reshape our transportation industry by favoring private carriers against common carriers.

During wartime, it was a highly successful tax. It served the two purposes it was intended to serve; and it did not create any undesirable side effects.

But what has happened since the war?

I propose to demonstrate that today the transportation excise tax not only fails to serve the purposes for which it was intended, but, in fact, operates against those purposes. I believe we can show that it is the undesirable results which today are paramount.

To be sure, the transportation excise tax remains a semifruitful source of income. As I have already indicated, this is the principal justification offered by the Treasury for its continuance.

During the fiscal year ending June 30, 1957, the Federal Government collected a total of \$690 million from these excises—approximately \$222 million from the 10-percent passenger tax and \$468 million from the 3-percent tax on transportation of property.

But there is reason to believe that this tax is self-defeating; that is, that it destroys another and perhaps a richer tax source. In other words, the transportation tax is its own loophole. It leaks out of the Treasury from the bottom as much as or more than it pours in at the top.

The reason for this, as I shall explain in fuller detail, is that the transportation tax actually creates a tax favoritism for private carriers, leaning to a draining off of taxable income from regulated common carriers.

I have reference to the regulated airlines, trucklines, motorbus lines, and water carriers, as well as to the railroads.

Furthermore, these transportation taxes are themselves deductible from income as legitimate business expenses. So the apparent gain for the Treasury is at least partly offset by invisible losses.

As I have pointed out before the \$468 million collected in transportation of property taxes in fiscal 1958 actually represents a clear gain for the Treasury of only about \$225 million. The rest is charged off against income.

It has even been estimated by competent authority that elimination of the transportation excise tax on property would, in fact, bring about a clear cash gain of about \$24 million to the Treasury. This is the contention of Mr. E. R. Jelsma, an economist who formerly served as chief of one of the bureaus at the Interstate Commerce Commission, and, in addition, had an illustrious association with the Senate Committee on Interstate and Foreign Commerce.

Mr. Jelsma believes that repeal of the tax would enable common carriers to regain about 20 percent of the private carrier business, with a resulting in-

crease in income-tax payments. This return and the elimination of the deductible feature of the 3 percent excise—presuming that the saving is not passed on to the consumer—would more than cover the cash loss to the Treasury.

As I have said previously, only three basic things can happen if this tax is repealed: The shipper may try to hold on to the 3 percent, in which case he will have to pay income tax on it; or the carrier may raise his rates, in order to get a share of the 3 percent, in which case the carrier will have to pay income tax on it; or the 3 percent could be passed on directly to the consumer, in which case it would become a vitamin B shot for the entire economy.

I do not know whether Mr. Jelsma is correct. I do know, however, that the transportation-property tax is bringing in less money than before from the railroads, and is costing a good deal of money to collect. If the economics I learned in college is still in vogue, taxes which are expensive to collect are worth less per dollars than taxes which are collected cheaply.

During the recent hearings of our Subcommittee on Surface Transportation, President J. M. Symes, of the Pennsylvania Railroad, filed a statement showing the trend in excise-tax collections. In 1951, the Pennsylvania Railroad collected \$19.9 million on transportation of property, and \$19.3 million on transportation of persons. By 1957, receipts had fallen to \$18.7 million on property, and \$10.4 million on persons, an overall reduction of more than \$10 million. But at the same time, costs of collection rose from \$439,000 to \$450,000, an increase of \$11,000. Thus, the cost of collection has risen from approximately 1.1 percent to more than 1½ percent.

Collections are comparatively cheap for the railroads, however. The American Trucking Association reports, in a special survey of 188 motor carriers for 1954, that trucking company collection costs averaged almost 6.5 percent.

Even presuming—and it is not a correct presumption—that railroad losses in traffic have been absorbed by other common carriers, the greater cost of collection has necessarily reduced the net tax return.

Thus, I think all must agree that the transportation excises have ceased to be a really productive source of tax funds.

What about the discouragement of consumption? Obviously, this is no longer a goal of national policy.

Let me quote from the statement of the Presidential Advisory Committee on Transport Policy and Organization, appointed by President Eisenhower on July 12, 1954. The Committee members were Secretary of Commerce, Sinclair Weeks; Charles E. Wilson, the then Secretary of Defense; Arthur S. Flemming, then Director of the Office of Defense Mobilization; and the participating members were George M. Humphrey, Arthur E. Summerfield, Ezra Taft Benson, and Rowland R. Hughes.

This is what the Committee said:

No economy that is based fundamentally on mass production and distribution of products throughout a continental market can continue to prosper without a trans-

portation system that is dynamic, efficient, and capable of delivering goods and people with safety, expedition, with a high degree of dependability, and at the lowest cost in the expenditure of manpower and other scarce resources. Historically, these requirements have been met most satisfactorily by common carriers, who by statute are charged with the heavy obligation to serve all individuals and shippers alike to the extent of their physical capacities, on known schedules at published rates and without discriminations. The availability of this type of stable and dependable service is of equal importance in the day-to-day business operations, production, and market planning of large and small businesses alike. Moreover, in a broader sense, the availability of this type of transportation system is essential to the orderly and healthful operation of a peacetime economy and is indispensable to the national security in time of war.

Congress, itself, has declared a national transportation policy, as follows:

It is hereby declared to be the national transportation policy of the Congress to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this act, so administered as to recognize and preserve the inherent advantages of each: To promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers; to encourage the establishment and maintenance of reasonable charges to transportation services, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices; to cooperate with the several States and the duly authorized officials thereof; and to encourage fair wages and equitable working conditions—all to the end of developing, coordinating and preserving a national transportation system by water, highway, and rail, as well as other means, adequate to meet the needs of the commerce of the United States, of the postal service, and of the national defense.

This is an unmistakable mandate, endorsed by the highest authorities in our land, by both the legislative and executive branches of our Government. Yet we persist in a tax policy that undoes our fine resolve.

The war is over, and, with it, the need to discourage transportation.

When, under the necessity of doing business, the tax fails to stop transportation, it nevertheless tends to divert the use of transportation from common carriers to the private carriers. Thus it subverts the very policy we wish to foster.

Not only that, but it diverts traffic regressively; that is, the cost of this shift falls most heavily on those least able to bear the load—on small business, as compared to big business; on low-income groups, as compared to those with larger incomes.

Furthermore, this tax imposes an unfair and unjustifiable burden on producers and consumers in the West and South, as against those in the East. It, therefore, upsets the balance of the economy, by discouraging efficient division of labor and a fair distribution of costs.

Nor are the West and the South the only losers, for this tax also encourages the uneconomic transfer of plants and warehouses—mostly from the East—to points closer to the changing consumer markets, even though these plants and warehouses might do a better and cheaper job where they are presently located.

The transportation excise tax also discriminates against coal and domestic oil, in favor of oil imports and natural gas. It puts American producers of other goods at a distinct disadvantage in legitimate competition with producers in Canada and Mexico.

Because of this tax, shady economic practices have sprung up, and highway safety has become more difficult to police.

Finally—and this is the ultimate absurdity—we have been driven to subsidizing certain segments of the transportation industry in an effort to undo partially the damage we have done by the continuation of this tax.

I think all will agree that if I can sustain this indictment, my case is established.

Then let us go back to the first item in this indictment. I quote now from the 71st Annual Report of the Interstate Commerce Commission for the fiscal year ended June 30, 1957:

It should be a matter of deep concern to the Congress as a legislative body, to the public and to the shippers, as it is to the Commission as the regulatory body, to note the continuing erosion of the traffic of regulated carriers who serve the public generally. Although the volume of freight transported by public carriers has increased, its growth has not kept pace with the general expansion of industrial production.

Adequate statistics to measure the growth of private transportation are not available, but a survey published in June 1957 by a private organization showed that 201 of 325 manufacturers operate their own trucks and about 40 others in this group are planning to do so. The survey indicated, also, that motor common carriers account for 39.3 cents of the transportation dollar; railroads, 32.9 cents; company-operated trucks, 15.2 cents; contract-carrier trucks, 10.4 cents; parcel post, Railway Express, air freight, and others, the remainder, or 11.2 cents.

The gradual chipping away of the regulated carriers' portion of the total freight business has continued, partly because of a tax inequality which fosters the use of private transportation and partly because of a further broadening of the agricultural commodity exemption by court interpretations.

We noted in our last report that the process of erosion raises the basic question of whether the public, and particularly the small shippers, will in the long run lose the advantages of a public transportation system with its open, relatively stable, and properly adjusted rates. The question is as vitally important now as it was last year. Public transportation must be financially sound if it is to provide safe, efficient, and adequate service, but its position must inevitably become less and less secure as long as the diversions of traffic continue.

Mr. President, the 3 percent transportation property tax affects only common carriers. There are today approximately 90,000 private carriers operating an estimated 600,000 vehicles. Many of these are private truck fleets or barges owned by industrial giants. In fact, the transportation tax is a direct incentive for the big shippers to buy their own transportation and operate their own transportation.

Mr. NEUBERGER. Mr. President, will the Senator yield?

Mr. SMATHERS. I am happy to yield to the able Senator from Oregon.

Mr. NEUBERGER. To begin with, as one of the Senators from the Pacific

Northwest, I desire to thank the Senator from Florida for the genuine leadership he has shown on this subject. As he well knows, and as he has so often emphasized, no part of the country is more cruelly hurt and discriminated against by the transportation tax than is the Pacific Northwest. We are almost 2,500 miles away from the major markets. Therefore, our industries carry the load of the 3-percent tax on every single mile of transportation of products they seek to sell, and they are at a disadvantage in the market place as compared with their competitors.

The Senator is aware of that fact, and I shall not dwell on it; but I thought it would be perhaps thoroughly justified for some Members of the Senate from the Pacific Northwest to show their gratitude to the Senator from Florida for what he has tried to do in this vital field.

I am particularly pleased that the Senator from Florida has emphasized how the small shipper is at a disadvantage because of the transportation tax. To buttress his argument, although I know it needs no fortification, I should like to point out that my area is the leading lumber producer. A very large sawmill owns its own fleet of logging trucks. It owns its own fleet of lumber-carrying trucks. They are a part of the mill operation. Such mills are very wealthy and generously capitalized. Therefore, they pay no 3 percent tax, because the trucks which bring the logs to the mill and carry the lumber away from the mill are owned by the mill itself.

However, let us consider the small sawmill, which is having a difficult time already trying to get along in view of the depressed lumber market. The small sawmill must hire a common carrier to bring the logs to the mill, and it must hire a common carrier to take the lumber away from the mill, either to the seller or the railhead. It pays a 3 percent tax on the transportation of the logs. It pays a 3 percent tax on the transportation of the lumber. Those products are among the heaviest in tonnage of any industry in the United States. Therefore, the small sawmill operator, who is already at a great disadvantage in competition with the absentee-owned large mill, is further discriminated against by the 3 percent tax.

I merely cite that example of an industry in Oregon, which is 3,000 miles away from Florida, in the opposite corner of the country, to demonstrate how correct the Senator from Florida is in the point he is making at this particular juncture in his speech.

I shall not delay the Senator further except again to stress how appreciative we in the Pacific Northwest are for his leadership on this issue, and for the very thorough hearings he has held as chairman of the Surface Transportation Subcommittee, which is seeking to bring about solvency and efficiency in the vast railroad industry of the United States.

Mr. SMATHERS. May I say to the able Senator from Oregon how grateful I am for his kind remarks. I think it is important, however, that we point out for the RECORD, and for the people of the

great Northwest, that the able Senator from Oregon has on many occasions talked to me, and to others who are directly concerned with the problem, of his great interest in it. He has supplied us with information fortifying our arguments. He is one of the sponsors of a proposal which would eliminate this tax. I think many of us saw even more clearly the inequities which were suffered by some areas when the Senator some years ago wrote for *Coronet* magazine, I believe, an article on this very subject. It was a fine article. I am sure it is still read by those interested in the subject.

In connection with the point we have just been discussing, I should like to state that not only does the 3-percent transportation tax put small businesses, those far removed from centers of population, at a great disadvantage; but, with respect to the regulated carriers, the 3-percent tax has the effect of diverting use of transportation furnished by regular transportation companies to use of transportation furnished by private companies. Of course, the big companies can have their own fleets of trucks.

There is in the rear of the Chamber a chart showing the class I intercity motor carriers ton-mile carriage. In 1939 the regulated carriers had what amounted to an equal share of the business. In 1942, 1943, and 1944, they had a larger share, because gas rationing was in effect and tires could not be obtained. When the war was over, in 1945, it can be seen what happened to the business of the nonregulated carriers. They have practically all the business. It is no wonder that our regulated motor carriers, the railroads, and even the airlines, are finding greater difficulty in meeting payrolls and in maintaining the transportation efficiency which all of us are agreed we must continue to have in order to serve our growing country.

We are bringing about an economic result which nobody ever intended. Certainly the small amount of revenue which is realized from such a tax is not worth the dislocation of our whole transportation system and the inequity which results for the small-business man from the tax.

Mr. NEUBERGER. And the threat to the entire structure of common carriers, on which we must depend if we are going to restore domestic prosperity and if we ever should have another national defense emergency.

Mr. SMATHERS. The Senator is correct.

Mr. NEUBERGER. I thank the distinguished Senator from Florida again, and express appreciation for his characteristically kind remarks to me.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. SMATHERS. I am happy to yield to the able Senator from Minnesota.

Mr. HUMPHREY. I said earlier in the day in a private conversation with the distinguished Senator from Florida that I would be very much pleased if he would state quite publicly that the junior Senator from Minnesota was in full support of his earnest and dedicated

endeavor to do something helpful for our great transportation system.

The address of the Senator from Florida today is directed primarily toward the excise tax problem with respect to our common carriers. The Senator from Florida, as every citizen in the land should know, has been the chairman of a special subcommittee of the Committee on Interstate and Foreign Commerce of the Senate, which subcommittee has conducted extensive hearings with respect to the whole problem of our railroad transportation system.

I commend the Senator from Florida for the work of his subcommittee and for his own work relating to the problems of our railroads. Secondly, I commend the Senator from Florida for his diligence and perseverance in pursuing the matter of tax adjustment and tax equity relating to the freight tax and the transportation tax, to which he now addresses himself.

I have nothing to add to what the Senator from Oregon has stated so well. I join with him. I know that time after time I have heard the junior Senator from Oregon rise in the Senate to tell of the discriminatory effects of the transportation taxes—the passenger tax and the freight tax—on the users of the railroads and common carriers themselves in the Far West and, I might add, in the Midwest and surely in the South.

If the Senator from Florida will permit me, I should like to restate what he himself said, referring to the manner in which the tax burden falls upon certain groups in our communities:

Not only that, but it diverts traffic regressively; that is, the cost of this shift falls most heavily on those least able to bear the load, on small business as compared to big business, on low income groups as compared to those with larger incomes.

The Senator from Florida noted, by referring to the chart which is on display in the Senate Chamber, that starting about the year 1949 there was a tremendous increase in the number of nonregulated carriers, which do not pay such a tax as compared to the regulated carriers. The persons and business firms who are compelled to use the regulated carriers pay the tax. The shippers have to pay the tax. That surely is a discriminatory tax.

I think the tax should be eliminated not only because it is regressive and not only because of the need, more or less, to stimulate our entire transportation system, but I think it should be eliminated because the statistical facts prove it is a discriminatory tax. It is a tax which actually creates a kind of unfair competition. Surely the Government of the United States has a responsibility to promote fair competition.

I also noted the Senator from Florida referred to the Cabinet committee; that is, the special transportation committee.

Mr. SMATHERS. The committee on transportation.

Mr. HUMPHREY. The committee on transportation, transport policy, and organization. The objectives listed by the committee are negated or obviated by

what is happening in the transportation industry as a result of these two discriminatory taxes.

I desire to pledge my support to the effort the Senator from Florida is making. The President has said he does not want any tax reduction. I gather what the President means is he wants no loss of revenue. Therefore, I believe one can support the President's position as to revenue by the repeal of these two taxes, because they are reducing Government revenues every day.

Mr. SMATHERS. I completely agree with the Senator. There is another chart which was not brought into the Senate Chamber, which demonstrates the effect of the removal of this particular tax. Actually, most people who have to pay the tax in fact deduct it as a business expense. The net income to the Government is really not very much.

There is no doubt, however, that the removal of the tax would stimulate business activity in the communities. The revenue to the Treasury would be greater than the loss which would be involved by the repeal of the tax.

Mr. HUMPHREY. I wish to associate myself again with the remarks of the Senator from Oregon [Mr. NEUBERGER], who pointed out the importance of a great national transport and transportation system. The key to that system is the railroads. It for no other reason than sheer national defense or if for no other reason than the kind of world in which we live, we must have a railroad system which is modern, which is operative, and which is solvent in order to serve the needs of the people. That is imperative.

I do not believe we can discuss transportation as an ordinary business. Transportation is not an ordinary business. Transportation furnishes the arteries and lifelines of commerce.

The Senator from Florida has done tremendous good by conducting hearings and by his leadership in the matter. I sincerely commend the Senator from Florida for the work he has done to bring to public attention the dire plight of our transportation system at the present time—particularly the railroads—and, secondly, the inequitable burdens placed upon some of the users of the common carriers under the kinds of tax laws we presently have.

Mr. SMATHERS. I thank the able Senator from Minnesota. As I had intended to say earlier, I knew of the Senator's expressed interest in the whole problem. I have never known anybody, in the years I have served in the Senate, who has been more energetic and more consistent than the able Senator from Minnesota in behalf of the small businessman and in the bringing about of equity, insofar as the business community is concerned, to those who do not have large resources. I know, of course, the Senator from Minnesota is in favor of the repeal of this tax, because he recognizes clearly it is inequitable and imposes a tremendous burden on the little man by starting him off with a handicap. It is much the same as loading down a race horse at the start of a race.

If the handicapper before the race required that the horse carry 10 pounds more than any other horse had to carry, it would be inequitable to the horse so burdened.

One of the reasons why we observe the small-business man is disappearing from the economic scene in America today is the imposition of this tax. It is contributing to his demise.

I thank the Senator for what he has said. He is always a strong colleague to have when fighting any kind of battle, and in an effort such as this I am delighted to have the Senator standing with us and helping us.

Mr. NEUBERGER. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. NEUBERGER. I wish to emphasize again very briefly a point mentioned by the Senator from Minnesota, which the Senator from Florida stressed many times. This tax is the worst of all, geographically, for the Far West, much of the Middle West, and the South. Those three areas of our country are most in need not of discouragement of industrial development but of encouragement of industrial development, so that the people may obtain per capita incomes commensurate with those in some of the Eastern States. This tax mitigates against such a goal.

Mr. SMATHERS. I thank the Senator. I have some illustrations of that fact to present a little later.

Mr. HUMPHREY. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. HUMPHREY. Is the Senator going to develop the revenue aspects with respect to the tax? There is a general feeling throughout the country, I will say to my good friend, that whenever we repeal a tax we lose revenue. Of course, that is not necessarily true, because an excise tax may have such a regressive effect upon a business that it may destroy the income tax base. I am of the opinion the excise taxes, to which the Senator addresses himself today, have actually impeded and obstructed economic growth, thereby denying revenue to the Government. I make this point to encourage the Senator to dwell more upon it, because I know there is going to be a tremendous resistance in the Congress to any modification of the tax structure.

I am of the opinion that if there is one single tax above all others, which should be repealed, it is the 3 percent freight tax. That tax definitely should go off the books. I think it represents a loss of revenue to the Government. From all the material I have read—and I have read a good deal about this tax—I know that it involves a loss to the business enterprises themselves, to the common carriers. It also represents a loss to independent business.

Mr. SMATHERS. At the moment we are working on some charts with which we hope to demonstrate that even if there were no stimulation to business activity by reason of the removal of the tax, nevertheless, it is costing the Government in the neighborhood of \$24 million. I do not have those charts at

the moment, but I hope to have them prepared tomorrow or the day after, at which time I hope we can discuss this subject further.

The tax referred to brings in only \$429 million. That is not a great deal of money so far as the Federal Government is concerned. Yet it is so stifling, so rigid, and so depressing that common sense should dictate to a man that he must conclude that it is a burden which should be removed if we are to bring about greater business activity. I hope we shall have the figures ready for the Senator tomorrow or the next day.

Mr. President, the 3 percent transportation property tax affects only common carriers. There are today approximately 90,000 private carriers operating an estimated 600,000 vehicles. Many of these are private truck fleets or barges owned by industrial giants. In fact, the transportation tax is a direct incentive for the big shippers to buy their own transportation.

Meanwhile, the small shipper who cannot afford the investment must continue to rely on common carriers, further weakening his competitive position, for he starts at a 3 percent disadvantage, and each subsequent shipment of his goods, multiplies his disadvantage.

Because of this 3 percent tax, private transportation has mushroomed since the war, aggravating the imbalance between big business and small. Moreover, the situation becomes increasingly worse as time runs on, for common carrier service is a decreasing-cost operation. That is, it becomes cheaper per unit as the volume rises.

So, as more and more large industries turn to private trucking, the effect snowballs, common carrier rates are forced up, the revenue to the Government is decreased, and the competitive burden on small business becomes increasingly heavy.

Consider the results. The Southern Railway told our subcommittee recently that it is losing about \$25 million a year to private trucking.

I do not absolve the railroads of certain responsibility for their failures. No doubt, a cleverer leadership of the industry, with more imagination and aggressiveness, could have done a better job of resisting these inroads. A handicapped horse, given superior powers and superior endurance, may still win the race. But, as the handicap increases, the wise man looks for another nose on which to lay his bet.

Must we now vote a subsidy for our certificated common carriers to equalize the race?

Perhaps that strikes other Senators as it does me, as the ultimate absurdity—first handicapping our regulated transportation industry so that it grows less and less competitive, then taking that which is realized from the tax, to help them stay in business. Such a course makes no contribution to logic, or good business, although it does nourish an already flowering bureaucracy.

So much, then, for the first count in the indictment—the discrimination against common carriers in favor of private transport.

Now let us examine a little more closely the regressive effect of the transportation tax.

I have already shown how big business is able to escape the effects of the tax, while small business is loaded down under an increasing cost burden. Surely this is a regressive effect. It shifts to small business the job of paying the greater part of the tax, while big business gets, if anything, a headstart on profits.

There are, however, other and subtler effects, more pernicious because they are harder to detect.

The 3-percent freight tax—and the 10-percent passenger tax, too, of course—applies against the cost of transportation. That is to say, the more one pays for his ticket, the more tax one must also pay.

Consider what this means to the low-volume businessman. Because he must ship in less-than-carload and less-than-truckload lots, he is subject to rates which frequently are just about double the rates available to high-volume shippers. His taxpayments, therefore, are proportionately higher. And once again, so far as price competition is concerned, he is running with a hobble on his knees.

As a typical example, I call attention to the freight rates on masonite hardboard for shipments between Laurel, Miss., and Danville, Pa.

The carload rate is \$1.38 a hundred-wage rates, high cost of materials, or lowered \$3.20 a hundredweight.

A single shipment of 50,000 pounds at the carload rate costs \$690. Aggregate shipments of 50,000 pounds at the less-than-carload rate cost \$1,600.

That is quite a difference. There is already enough of an advantage for the big shipper.

But in both cases there is a freight-transportation tax to be paid. The carload shipper pays \$20.70 for his 50,000 pounds of masonite. The less-than-carload shipper pays \$48. That is a differential of 135 percent.

I quote from the Ninth Semiannual Report of the Small Business Administration, listing the major current problems of small business:

1. The impact of taxes which makes it difficult for some small businesses to accumulate working capital or capital for expansion.
2. Shrinking margins of profit due to high wage rates, high cost of materials or lowered volume of business.
3. Competition from imports.
4. Competition with large businesses which extend their operations in new fields by diversification or by mergers.

In each of these four areas, the freight transportation tax is an obvious villain. Not only is it regressive in its first application, but even worse, it is a pyramiding tax which becomes more regressive at each stage until finally it crashes down onto the consumer with the weight of lead.

Let me illustrate.

Take a common article of clothing like a man's cotton shirt. Let us ignore, for the moment, the tax charges which have already accumulated on the cotton before it is grown—the charges on the agricul-

tural implements, for example, which figure in the cost of cotton planting. Let us start with the cotton in the field.

The cotton goes first to a processing plant. Step 1, a 3-percent tax on transportation. After processing, it goes to the spinning plant. Step 2, another 3-percent tax on transportation. From the spinning plant to the weaving plant. Step 3, another 3 percent. From the weaving plant to the manufacturer. Step 4, a 3-percent tax again. Next, from the manufacturer to the distributor. Step 5, another 3 percent. And from the distributor to the retailer. Step 6, another 3 percent.

Of course, some of these steps may be telescoped. If the manufacturer is big enough, perhaps he does his own processing, spinning and weaving. If the retailer is big enough, perhaps he gets away without a middleman or distributor. But again the controlling factor is size. The bigger the business, the less this tax hurts; and conversely.

What about the effect on the consumer? There are several effects, none of them good. The most immediate effect—working through the pyramidal tax I have just outlined—is that consumers are in fact paying a hidden Federal sales tax on almost everything they buy. And this obviously has a regressive effect, since the tax eats up a bigger part of smaller incomes than it does of larger ones.

Furthermore, this tax is a direct and indirect contribution to higher living costs. Let me illustrate what I mean. In December 1942, a lumber mill in Hattiesburg, Miss., paid a transportation tax of \$7.16 to move a carload of lumber to Chicago. By November of 1956, without any increase in the tax rate, the transportation tax charge had climbed to \$13.81. And every time freight rates go up, the tax charge climbs again.

This much is clearly a direct contribution to the rising cost of living, since all new transportation costs, including taxes, are eventually reflected in the price the consumer must pay.

But there is also a further contribution to the inflationary spiral, for experience shows that manufacturers, distributors, and retailers have been including the transportation tax charge in the base figure from which markup is figured. In other words, the consumer ends up paying, not only a hidden sales tax, but a pyramidal profit based on the sales tax.

I have been talking chiefly about the tax on transportation of property. But the same regressive effects also result from the passenger tax. For two reasons: First, because the poor man and the rich man both pay 10 percent on their tickets. That represents a fraction of the rich man's income, but it is quite a sizable expense to the poor man. Second, however, and more important, because much of the traveling in this country today is done on expense accounts, which are chargeable against profits tax, the higher a company's income, the greater advantage the company receives through business deductions against profits.

In our highly mobile country, travel is not always a luxury. Today diversification in business is desirable. It can be accomplished through quiet and efficient travel. Sometimes families are split between east coast and west, between north and south. In tragedy or on occasions of joy, the transportation system is the link which makes separation bearable.

Yet, foolishly, we are penalizing mobility, which is one of the sources of America's great strength. In most circumstances, travel is not a commodity to be classed with jeweled trinkets or toilet water; and it ought not to be taxed in the same way.

III

Now, let me move to another aspect of the tax situation, namely, the effect on commerce among our major economic regions.

It would take a combination of a Philadelphia lawyer and a Harvard economist to trace the tax thread through all its ramifications, and I shall not attempt to do so. I do know, however, that this transportation tax has more than a little to do with some of the industrial dislocations which have taken place during the past decade.

I do not mean to suggest that I oppose industrial mobility. Far from it. Most of the changes which have come about since the war were dictated by solid economic logic—by shifting population, by new market conditions, and by advances in technology. When these have been the causes of industrial movement, the changes have contributed, and will continue to contribute in the long run to balance in our national economy and, therefore, to our national strength.

But it is no secret, I am sure, that in some instances, the crucial factor in relocation has been a matter of artificial advantage. Given a neat balance between competing factors, the 3-percent property transportation tax has more than once been enough to tip the scale in favor of relocation. Where this has happened, it has frequently been a sacrifice of efficiency and other natural advantages for a wholly synthetic cause, and, as such, it represents a net loss for the country.

But not all industries can afford to relocate. Many, instead of being able to capitalize on an artificial advantage, are subjected to an artificial disadvantage. For example, the taxes on food.

A carload of apples shipped from Winchester, Va., to New York City costs \$267.83. A carload shipped from Yakima, Wash., to New York costs \$852.18. That is a big differential. That is the difference in the cost of transportation.

But the shipper in Yakima must also pay a tax of \$25.57—while the shipper in Virginia pays only \$8.04. So the apple-grower from Washington State not only has a natural, understandable disadvantage, but the Federal Government compounds the disadvantage for him.

The disadvantage works in reverse when the eastern manufacturers try to ship to the West or the South. No wonder plants seek to relocate.

This transportation tax helps to build an unnatural wall between regions, creating economic isolation. And it shows up on practically every item that is sold anywhere in the country.

Even worse, this tax is an unnecessary and unfair burden on certain of our native industries in their economic competition with producers in Canada, in Mexico and elsewhere abroad.

Understand, I am not making an argument against international trade. My record on this point is clear. I merely say that we ought not to load down our own people under an unfair tax.

Let us take one specific example of how this tax works to harm our native industries.

Muriate of potash is a basic ingredient in the manufacture of commercial fertilizer. It is shipped in large quantities from Trona, Calif., and from Saskatoon, Saskatchewan.

The railroad freight rates from Trona to Jackson, Miss., and from Saskatoon to Jackson are exactly the same—\$17.44 a ton.

But if two 40-ton cars are shipped to Jackson, one from Trona and one from Saskatoon, the cost of the California shipment will be \$20.93 higher than the cost of the shipment from Canada. The difference, of course, is the 3-percent freight tax, which must be paid by the California shipper but not by the Canadian.

Obviously, unless he is willing to absorb the tax, the Californian will not get this business.

I say this is unreasonable and unfair to our own people.

In March 1958 the United States Bureau of Labor Statistics reported the Consumer Price Index at 123.3—1947-49 equals 100—0.7 percent above February 1958 and 3.7 percent over March of the previous year. This index has gone up in 22 of the last 25 months.

The question has been asked many times, how can the cost of living remain high and actually increase in the face of a depression?

One of the reasons is the increased cost of food, most of which is shipped from the outlying producing and processing areas to large population consuming centers. This food, subject to the 3 percent transportation tax, makes up 30 percent of the cost of living index.

Incidentally, there has never been a valid reason for a tax on food.

It is this continuing rise in the cost of food and other items in the index that has activated the escalator clauses in wage contracts and created the demand for higher wages—all of which is inflationary.

The Federal Government has suggested that States reduce the property taxes of railroads; it has urged manufacturers to reduce prices; it has asked labor to curtail wage demands.

The Government, then, should set an example by being the first to reduce prices and curb inflation through the repeal of this tax.

IV

While we are about it, I believe it is also time to consider the artificial upset

created in the fuel industries by two special freight transportation taxes.

The present code, in section 4271 (b), imposes a special flat rate transportation tax on coal of 4 cents a short ton. Section 4281 imposes a tax on transportation by pipeline of crude petroleum and petroleum products at 4½ percent of the transportation charge.

There is no comparable tax on transportation of natural gas in pipelines; and there is, of course, little opportunity to tax imported oil, since most of it is used on the eastern seaboard, close to the port of entry.

Plainly, this is unequal taxation of competing industries and amounts to a guaranteed competitive edge for natural gas and imported oil. Again, I say this is unfair and unreasonable.

v

These are some of the major results of the transportation taxes. There are also several lesser—but still quite important—side effects.

The report of the Interstate Commerce Commission for the fiscal year ending June 30, 1957, commented as follows:

The special wartime excise taxes on the transportation of property and persons continue to cause a diversion of an increasing amount of traffic from for-hire carrier to private means of transportation, and have fostered development of pseudo-private buy and sell truck operations which escape public regulations as well as the tax.

Increasingly, the transportation taxes have furnished the incentive for a whole series of semiethical and semilegal dodges and sharp practices. Trading on their 3 percent advantage, certain private carriers have contrived to divert volume traffic from the regulated common carriers by back hauling nonexempt freight.

From all over the country, increasing numbers of complaints have flooded into the ICC concerning such traffic in salt, sugar, meat and meat products, lumber, and canned goods.

Some of these carriers merely lease their equipment to a shipper who then avoids the tax as a private shipper.

But the most common subterfuge is the so-called buy and sell device. In this scheme, false bills of sale and invoices are issued to make it appear that the commodities being transported actually belong to the owner of the vehicle.

Unregulated private carriers and exempt carriers—following normal deliveries—go through the motions of purchasing nonexempt items at the source to avoid an empty back haul. Usually the resale is arranged even before the carriers buy their loads.

Frequently the driver of a privately owned truck makes these arrangements unknown to his employer. They are so advantageous to the driver and so difficult to police that they are rapidly becoming common practice. Therefore, I submit, this tax is encouraging wholesale law violations on an ever greater scale.

Another of the harmful side effects of the freight transportation tax is the impetus it has given to deterioration of highway safety standards.

Public interest and, in fact, public law require that private and exempt carriers

must meet the same standards of vehicle safety and driver working conditions prescribed for common carriers.

But of the 160,000 carriers in this country, operating about 1½ million trucks, less than 6 percent are regulated common carriers, and they operate only about one-third of the trucks.

Of the other 94 percent with their million-odd trucks, the Interstate Commerce Commission has been able to identify and serve copies of its regulations upon only one-third.

During a special road check in August 1957 the Interstate Commerce Commission discovered that 62.3 percent of the private carriers and 67.1 percent of the exempt carriers were operating vehicles with 4 or more driver-equipment faults. This percentage compares with a percentage of 32.6 for the authorized regulated carriers.

Of course, not all of these defects would be remedied as a direct result of eliminating the 3-percent freight tax; but with the incentive gone, we would see disappear the worst of the fly-by-night offenders.

Mr. President, I think that there are two basic conclusions which emerge quite clearly from the facts I have presented to the Senate today. First, the purposes for which these transportation taxes were enacted no longer apply. Second, the taxes today operate directly against the basic and oft-expressed interests of the Government.

Let me go a little further on this second point.

We have heard much from the administration about its desire to quit competing with private industry. But the 3 percent freight tax does not apply to the parcel post operations of the Post Office Department. What is more, for years the Post Office has ignored a mandatory provision of the 1912 law requiring that rates be high enough to make the service self-sustaining. Not only has the Government forced the common carriers into an unfair competitive position, it is also operating its own freight enterprise at a loss.

Now, what about another of our Government's self-contradictions?

For years the Government has had a special and rightful interest in the development of air transport. Cash subsidies to the domestic airlines are running this year and next in the neighborhood of \$35 million.

Since the 1930's the Federal Government has spent more than a billion dollars for airports, without a cent of direct repayment.

Through the Civil Aeronautics Board, the Federal Government today maintains and operates a vast and complicated system of traffic control which has cost almost \$2 billion in the 33 years of its operation.

Probably half this money represents a direct contribution to the use of air facilities by commercial carriers; and no user charges have ever been made.

Not long ago, Secretary of Commerce Sinclair Weeks sent to Congress a 5-year plan, calling for expenditures of \$2.8 billion to modernize the Nation's air traffic control and navigation systems.

Yet, in spite of these direct and indirect subsidies, the airlines, too, find themselves faced with the specter of declining revenues and rising costs.

I favor expenditures for improved airline transportation; and certainly I favor every one of the recommended appropriations which will result in greater safety in the air. But we are in a somewhat inconsistent position today, because commercial airline business is suffering greatly, and this results in large measure for a continuation of the pressure of the 10 percent passenger tax and the 3 percent tax on the potential cargo customers of the airlines.

But this is a two-edged blade, Mr. President. The 3 percent tax also does its part on the soft underside of the carrier by jacking up costs, in the usual pyramidal fashion, of fuels, oils, tires, food supplies, shop machinery, maintenance materials, parts, and even the very fabric of the airplanes themselves. The companies all have to pay the 3 percent transportation tax when they are moving equipment to the assembly points.

What sort of crazy logic permits a subsidy on one end because the victim cannot move very fast, and still places a ball and chain on the other end? That is exactly what is happening today in the air transport business.

Mr. President, it has been suggested that if the Federal Government removes the excise tax on transportation, the carriers who would receive the benefit would raise their rates, because the public would have become accustomed to paying the additional 3 percent on the transportation of freight and the additional 10 percent on transportation of passengers. I was greatly concerned whether that might not be the effect. I did not believe it should be. So I thought the best way to determine the answer was to take up the matter with the various regulated carriers' associations, which represent the carriers that might benefit most by the proposed repeal of the tax.

I have received a letter dated June 2, 1958, from Stuart G. Tipton, president of the Air Transport Association. I shall not read the entire letter; I shall read the first and the last paragraphs:

Reference is made to our recent discussion regarding the necessity of repealing the outmoded World War II excises on the transportation of persons and property. During that discussion you inquired whether if the 10 percent transportation tax were removed the airlines would increase their fares 10 percent to "take up the slack." It is the purpose of this letter to state for the record the answer I gave you at that time.

It seems clear that under the circumstances stated an additional rate increase is justified and should be forthcoming whether or not the tax is repealed.

Mr. Tipton's reference is to the fact that the airlines have had pending before the Civil Aeronautics Board for the last 2 years a general rate increase. He continues:

In any event, the airlines do not intend to take advantage of the elimination of the tax as an excuse for a corresponding increase in fares. Any such increases must and should be based upon, and justified by, the

need of the carriers for additional revenue and will not be based upon, or justified by, the elimination of the tax.

Mr. President, I ask unanimous consent that the entire letter may be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AIR TRANSPORT ASSOCIATION,
Washington, D. C., June 2, 1958.
The Honorable GEORGE A. SMATHERS,
United States Senate,
Washington, D. C.

DEAR SENATOR SMATHERS: Reference is made to our recent discussion regarding the necessity of repealing the outmoded World War II excises on the transportation of persons and property. During that discussion you inquired whether if the 10-percent transportation tax were removed the airlines would increase their fares 10 percent to "take up the slack." It is the purpose of this letter to state for the record the answer I gave you at that time.

As you know, airline fares are regulated by the Civil Aeronautics Board. The Board can prevent any airline from increasing its fares. If the transportation tax were repealed tomorrow, it would mean an immediate reduction of 10 percent in the cost to the public of air travel.

During our discussion I pointed out to you that the scheduled airline industry is committed to invest close to \$3 billion in prop-jet and turbojet airplanes in the next 4 years. The size of this commitment can best be appreciated when it is compared to the present book value of airline operating equipment—\$1,056,000,000. If the airlines are to meet their commitments for new aircraft they must have increased earnings. These commitments must be met because this country's supremacy in air transportation depends upon them. In view of the fact that the airline industry is caught in a spiral of increasing costs, which cannot be overcome by greater efficiency in management and operation, the industry cannot realize increased earnings unless it increases its fares. A proceeding to investigate airline fare levels was instituted by the Civil Aeronautics Board 2 years ago. Although the Board early this year granted an interim increase of 4 percent plus \$1 per ticket, it is not expected that the pending proceeding will be terminated until sometime next year and, of course, we have no way of knowing at this time what further increases will be granted. It seems clear that under the circumstances stated an additional rate increase is justified and should be forthcoming whether or not the tax is repealed. In any event, the airlines do not intend to take advantage of the elimination of the tax as an excuse for a corresponding increase in fares. Any such increases must and should be based upon, and justified by, the need of the carriers for additional revenue and will not be based upon, or justified by, the elimination of the tax.

Cordially,

S. G. TIPTON.

Mr. SMATHERS. Mr. President, I have received a letter dated June 2, 1958, from Daniel P. Loomis, president of the Association of American Railroads, which reads as follows:

ASSOCIATION OF AMERICAN RAILROADS,
Washington, D. C., June 2, 1958.
Hon. GEORGE A. SMATHERS,
Chairman, Subcommittee on Surface
Transportation, Committee on In-
terstate and Foreign Commerce,
United States Senate.

DEAR SENATOR SMATHERS: During the course of the recent hearings before your committee, there was presented a wealth of

testimony showing clearly that repeal of the transportation excise taxes would not only aid the railroad industry but would also materially benefit the traveling public and shippers and consumers generally. During those hearings, no real attempt was made to refute such testimony. However, it has come to my attention that opposition to the repeal of these taxes has now been voiced on the ground that there would be no benefits to the travelers, shippers, or consumers as the railroads would use such repeal as a basis for seeking increases in their freight rates and passenger fares.

While the Association of American Railroads does not concern itself with rate or fare policy matters, I have been authorized, on behalf of the regional traffic organizations, within which rate and fare changes are initiated, to state that repeal of the transportation excise taxes will not be urged as a basis for authorization of a change in freight rates or passenger fares.

Very truly yours,

DANIEL P. LOOMIS.

That is a statement from the head of the Association of American Railroads that the railroads will not use the proposed excise tax removal as the basis for a fare or freight rate increase.

I have received a letter dated June 2, 1958, from A. W. Koehler, secretary-manager of the National Association of Motor Bus Operators. I shall read a pertinent paragraph of the letter:

There should be no fear that the intercity bus industry will attempt to take advantage of the elimination of the tax as an excuse for a corresponding increase in fares. Some of the intercity companies do, of course, have fare increase applications pending, and no doubt it will be necessary to make applications for increases from time to time in the future. You may be assured, however, that any such applications will be based upon and justified, as indeed they must, by economic facts and will not be the result of or based upon the elimination of the transportation tax.

Mr. President, I ask unanimous consent that the entire letter written by Mr. Koehler may be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF
MOTOR BUS OPERATORS,
Washington, D. C., June 2, 1958.
Hon. GEORGE A. SMATHERS,
Senate Office Building,
Washington, D. C.

DEAR SENATOR SMATHERS: The following information is being sent you in support of your efforts to afford relief to the passenger carriers from the outmoded and burdensome transportation tax.

The 10-percent tax on the transportation of persons was enacted as an emergency wartime measure during World War II, and its sole purpose and justification was to discourage unnecessary wartime travel. The emergency need for discouraging travel has long since disappeared, but the tax remains as a deterrent to travel and a depressing influence upon the entire transportation industry. We earnestly believe that this tax should be removed, and this opinion is shared by all modes of transportation, by the public bodies, both Federal and State, which regulate or have an interest in public transportation, and we believe by the vast majority of the traveling public as well.

The removal of the tax would relieve the industry of the substantial administrative burden of collection which the tax imposes and would result in an appreciable saving in

administrative and reporting expense. While precise cost data are not available, a traffic executive of a large operating company expressed the view that 4 cents per passenger was a reasonable estimate of the cost, to the carriers, of collecting the tax, processing the detailed records required, and remitting the proceeds to the Treasury. On this basis the cost to the intercity carriers for 1957 would be approximately \$8 million, which is equivalent to 22 percent of their net revenues before taxes and roughly 44 percent of their net revenues before taxes, and roughly 44 percent of their net income after taxes.

Moreover the removal of the tax would encourage travel and, in our opinion, give a much-needed shot in the arm to the entire transportation industry.

There should be no fear that the intercity bus industry will attempt to take advantage of the elimination of the tax as an excuse for a corresponding increase in fares. Some of the intercity companies do, of course, have fare increase applications pending, and no doubt it will be necessary to make applications for increases from time to time in the future. You may be assured, however, that any such applications will be based upon and justified, as indeed they must, by economic facts and will not be the result of or based upon the elimination of the transportation tax.

It is the thought and the purpose of the bus industry that the traveling public will be the direct beneficiary of the removal of this tax while at the same time the bus industry will be benefited by the relief from the administrative burden of collection and by an increased use by the traveling public of all modes of public transportation. The intercity bus industry would not realize the benefits of stimulated bus travel if the industry should increase fares on the basis of the elimination of the transportation tax.

Please be assured that your efforts toward elimination of the burdensome 10 percent transportation tax are greatly appreciated.

Sincerely yours,

A. W. KOEHLER,
Secretary-Manager.

Mr. SMATHERS. Mr. President, it remains only to summarize the advantages which would flow from the removal of these excises. I have been over most of them in transit.

First. I believe that there would be only an insignificant drop in tax revenue—perhaps even a gain.

Second. Removing these excise taxes would stimulate the entire transportation industry. It would encourage traffic in exactly the same fashion as it discouraged traffic.

Third. It would unquestionably lower prices to the consumer, not only directly, by cutting the cost of train and plane tickets, but indirectly in the goods and services on which tax costs are now pyramided.

Fourth. It would improve the competitive position of small business, by eliminating what is essentially a tax favoritism for big business.

Fifth. It would remove a regressive feature from our present tax structure—something which obviously we can easily do without.

Finally, it would give a shot in the arm to the railroads, which, as we all know, are hurting quite badly now. It would help all regulated motor carriers. It might well save the intercity but transportation system. It can assist greatly the airlines who face mounting operating costs with little or no increase in

traffic. It would be a direct and essential contribution to the health of our economy which depends, as it has depended for years, on huge capital expenditures from the entire transportation industry. These capital expenditures have not been forthcoming in their usual volume for the last several years now; and this is one reason why the steel industry is in such difficulty, and why our economy is in its present weakened condition.

In short, Mr. President, it appears to me that there are few steps we can take, in this session or any other session, which promise so much good for the expenditure of so little effort.

Mr. President, on behalf of the Senator from Washington [Mr. MAGNUSON] and myself, I submit an amendment which seeks to bring about repeal of the excise tax on the transportation charges for freight and passengers.

The PRESIDING OFFICER. The amendment will be received, printed, and referred to the Committee on Finance.

THE RAILROAD RETIREMENT BILL

Mr. MORSE. Mr. President, I am chairman of the Subcommittee on Railroad Retirement, of the Senate Committee on Interstate and Foreign Commerce. I have just come to the Chamber from a meeting of the subcommittee. There, information reached us that an unfair criticism had been made of a member of the subcommittee, the Senator from Colorado [Mr. ALLOTT], to the effect that the subcommittee has not yet made to the full committee a report on a railroad retirement bill, because, so it has been alleged, the Senator from Colorado has been "sitting on the bill" in the subcommittee, or a similar charge to the effect that the Senator from Colorado has been delaying action on the bill.

Mr. President, as chairman of the subcommittee, I resent that charge against the Senator from Colorado. In fairness to him, I make the statement that there is no basis in fact for such a charge.

We have been working as hard as we can on the railroad retirement bill. I know of no subject that is more technical. In fact, we have almost reached the conclusion that, even to serve on the subcommittee, one should have a degree in higher mathematics.

From time to time there have been postponements, for two primary reasons: One has been to get more statistical or mathematical information for the enlightenment of the subcommittee, because we want to report to the Senate a bill which will be actuarially sound. Second, some representatives of the railroad brotherhoods themselves—and I stress this point—last year and also during a part of this year have said they would prefer to have action taken by the Senate on the bill only after the House of Representatives took action on a tax-exemption bill which they have pending before the House of Representatives.

Some weeks ago, I made clear to representatives of some of the railroad brotherhoods that my subcommittee could not wait indefinitely for action in the House of Representatives on any

tax-exemption bill, and that I intended to have the subcommittee proceed with further consideration of the railroad retirement bill. That is exactly what we have done.

Mr. President, as chairman of any committee or subcommittee, I shall always protect the members of my committee from unfair criticism. If such a criticism has been afloat in regard to the Senator from Colorado [Mr. ALLOTT], I wish to say it is not based on fact.

Mr. ALLOTT. Mr. President, will the Senator from Oregon yield to me?

Mr. MORSE. I yield.

Mr. ALLOTT. I wish to thank the Senator from Oregon for his remarks.

I believe it is wise to emphasize the fact that back in 1956, when we voted to report the measure which called for a 10-percent raise, some of us agreed that we would do everything within our power to make this fund actuarially sound.

I wish to compliment the Senator from Oregon, who has tried very hard, especially during the periods when the Senate has held long sessions, to have the committee meet; but time after time he has had to give way—as both of us know—for other committee meetings, particularly those of the Committee on Labor and Public Welfare, which demanded his attendance and the attendance of other Senators.

I assure the Senator from Oregon that if it is at all within my power, I shall assist him in every way to have the committee report, this year, a bill which will be actuarially sound.

Mr. MORSE. I know that is true, and that is what the Senator from Colorado has done in the past.

MUTUAL SECURITY ACT OF 1958

The Senate resumed the consideration of the bill (H. R. 12181) to amend further the Mutual Security Act of 1954, as amended, and for other purposes.

CONGRESSIONAL RESPONSIBILITY AND FOREIGN AID

Mr. JENNER. Mr. President, the time has come for the annual performance in Congress which I have called the Foreign Aid Follies.

Every year both the Senate and the House go through the old routine. Their respective committees hold two sets of hearings—first on the foreign aid authorization, and then on the appropriation. They publish hundreds of printed pages of testimony and reports. But the result is never for a moment in doubt.

The executive branch will get whatever it asks for, minus token cuts here and there. But the executive agencies always calculate what cuts Congress will probably make, and add them to their requests. Even after the cuts are made, executive agencies end up with all the funds they expected, and sometimes more than they hoped for.

I have no doubt that if Congress were free to express its real opinion, both Houses would vote to put an end to the Foreign Aid Follies at once.

But Congress is not free. Instead Congress is cribbed, cabined, and confined

by a network of restrictions woven by the executive branch.

The Constitution gives Congress the legislative power. That means Congress is charged with two great responsibilities. It is responsible for deciding how much of the people's earnings is to be granted to executive agencies for specific purposes; it is also responsible for devising administrative machinery so precise that the executive agencies can spend the public money only in the way Congress has told them it is to be spent.

Let us be honest, and admit that Congress does not make the decisions about how much of the people's earnings is to be diverted to foreign giveaways and Congress does not set up administrative machinery to guide the use of this money into channels restricted to the purposes Congress has approved.

In dealing with foreign aid, Congress has totally abdicated its Constitutional responsibilities. Of course, we go through the motions. We have bills in proper form, with impressive titles and numbers. Our committees hold the requisite number of hearings, and issue the requisite number of reports. We debate, and solemnly count the votes. The only thing missing is that Congress has nothing whatever to say—in fact—about how much of the people's earnings should be spent for foreign aid, and does nothing whatever to keep this spending within administrative limits which insure the money will be spent as the sovereign people and their representatives wish.

This is not a criticism of the Members of Congress. I gladly pay tribute to the great amount of work they do in connection with foreign aid. I saw we have forgotten the one thing needful—it does not make the slightest difference how much work we do, if we do not do enough to preserve full congressional oversight of the people's money and of the Government agencies which are supposed to serve the people.

This is the last statement I shall make in the Senate on foreign-aid bills. I have fought year after year, against both the authorization and the appropriation bills knowing the fight was hopeless.

This year I do not intend to discuss the appropriation bill, which will follow this bill because the issue lies here. For years Members of Congress have been told that the foreign-aid-authorization bill was not important. "Let them pass this bill, and you can reduce the appropriation later, when the appropriation bill comes up."

Then, when the foreign-aid appropriation was before us, the same soft voices murmured, "We can't do anything now. We would be glad to go along, but Congress has given us orders to spend, in the authorization bill."

I say the authorization bill is our chief responsibility. The authorization bill determines the objectives for which money is to be spent and the administrative channels through which our money is to move.

It does not make any difference whether a sum appropriated is large or small. If Congress has not made certain in the authorization that it will be spent

85TH CONGRESS
2D SESSION

H. R. 12832

IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 1958

Mr. HARRIS introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

A BILL

To amend the Interstate Commerce Act so as to strengthen and improve the national transportation system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Transportation Act of
4 1958".

5 AMENDMENT TO INTERSTATE COMMERCE ACT, RELATING
6 TO LOAN GUARANTIES

7 SEC. 2. The Interstate Commerce Act, as amended, is
8 amended by inserting immediately after part IV thereof the
9 following new part:

1

“PART V

2

“PURPOSE

3 “SEC. 501. It is the purpose of this part to provide for
4 assistance to common carriers by railroad subject to this Act
5 to aid them in acquiring, constructing, or maintaining facili-
6 ties and equipment for such purposes, and in such a manner,
7 as to encourage the employment of labor and to foster the
8 preservation and development of a national transportation
9 system adequate to meet the needs of the commerce of the
10 United States, of the postal service, and of the national
11 defense.

12

“DEFINITIONS

13

“SEC. 502. For the purposes of this part—

14

“ (a) The term ‘Commission’ means the Interstate
15 Commerce Commission.

16

“ (b) The term ‘additions and betterments or other
17 capital expenditures’ means expenditures for the acqui-
18 sition or construction of property used in transportation serv-
19 ice, chargeable to the road, property, or equipment invest-
20 ment accounts, in the Uniform System of Accounts pre-
21 scribed by the Interstate Commerce Commission.

22

“ (c) The term ‘expenditures for maintenance of prop-
23 erty’ means expenditures for labor, materials, and other costs
24 incurred in maintaining, repairing, or renewing equipment,
25 road, or property used in transportation service chargeable

1 to operating expenses in accordance with the Uniform Sys-
2 tem of Accounts prescribed by the Commission.

3 "LOAN GUARANTIES

4 "SEC. 503. In order to carry out the purpose de-
5 clared in section 501, the Commission, upon terms and
6 conditions prescribed by it and consistent with the provisions
7 of this part, may guarantee in whole or in part any public
8 or private financing institution, or trustee under a trust
9 indenture or agreement for the benefit of the holders of any
10 securities issued thereunder, by commitment to purchase,
11 agreement to share losses, or otherwise, against loss of
12 principal or interest on any loan, discount, or advance, or
13 on any commitment in connection therewith, which may be
14 made, or which may have been made, for the purpose of
15 aiding any common carrier by railroad subject to this Act in
16 the financing or refinancing (1) of additions and betterments
17 or other capital expenditures, made after January 1, 1957,
18 or to reimburse the carrier for expenditures made from its
19 own funds for such additions and betterments or other capi-
20 tal expenditures, or (2) of expenditures for the maintenance
21 of property.

22 "LIMITATIONS

23 "SEC. 504. (a) No guaranty shall be made under
24 section 503—

25 "(1) Unless the Commission is of the opinion that

1 without such guaranty, in the amount thereof, the
2 carrier would be unable to obtain necessary funds, on
3 reasonable terms, for the purposes for which the loan
4 is sought.

5 “(2) If the loan involved is at a rate of interest
6 which, in the judgment of the Commission, is unreason-
7 ably high, or if the terms of such loan permit full re-
8 payment more than fifteen years after the date thereof.

9 “(3) For any loan for expenditures for maintenance
10 of property, if the principal of such loan, or the total of
11 such principal and the unpaid principal of all other
12 loans to the common carrier concerned for expenditures
13 for maintenance of property guaranteed under this Act,
14 exceeds 50 per centum of the aggregate amount charged
15 in the accounts of said carrier for expenditures for
16 maintenance of property during the calendar year next
17 preceding the date of the application for such guaranty.

18 “(b) It shall be unlawful for any common carrier by
19 railroad subject to this Act to declare any dividend on its
20 preferred or common stock while there is any principal or
21 interest remaining unpaid on any loan to such carrier made
22 for the purpose of financing or refinancing expenditures for
23 maintenance of property of such carrier, and guaranteed
24 under this part.

"MODIFICATIONS

"SEC. 505. The Commission may consent to the modification of the provisions as to rate of interest, time or payment of interest or principal, security, if any, or other terms and conditions of any guaranty which it shall have entered into pursuant to this part, or the renewal or extension of any such guaranty, whenever the Commission shall determine it to be equitable to do so.

"PAYMENT OF GUARANTIES; ACTION TO RECOVER PAYMENTS

MADE

"SEC. 506. (a) Payments required to be made as a consequence of any guaranty by the Commission made under this part shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for the purpose of carrying out the provisions of this part.

"(b) In the event of any default on any such guaranteed loan, and payment in accordance with the guaranty by the United States, the Attorney General shall take such action as may be appropriate to recover the amount of such payments, with interest, from the defaulting carrier, carriers, or other persons liable therefor.

1 “GUARANTY FEES

2 “SEC. 507. The Commission shall prescribe and collect
3 a guaranty fee in connection with each loan guaranteed
4 under this part. Such fees shall not exceed such amounts
5 as the Commission estimates to be necessary to cover the
6 administrative costs of carrying out the provisions of this
7 part. Sums realized from such fees shall be deposited in the
8 Treasury as miscellaneous receipts.

9 “ASSISTANCE OF DEPARTMENTS OR OTHER AGENCIES

10 “SEC. 508. (a) To permit it to make use of such expert
11 advice and services as it may require in carrying out the
12 provisions of this part, the Commission may use available
13 services and facilities of departments and other agencies and
14 instrumentalities of the Government, with their consent and
15 on a reimbursable basis.

16 “(b) Departments, agencies, and instrumentalities of the
17 Government shall exercise their powers, duties, and functions
18 in such manner as will assist in carrying out the objectives
19 of this part.

20 “ADMINISTRATIVE EXPENSES

21 “SEC. 509. Administrative expenses under this part shall
22 be paid from appropriations made to the Commission for
23 administrative expenses.

1 "TERMINATION OF AUTHORITY

2 "SEC. 510. The authority granted by this part shall
3 terminate at the close of March 31, 1961, except that its
4 provisions shall remain in effect thereafter for the purposes
5 of guaranties made by the Commission prior to that time."

6 AMENDMENTS TO SECTION 1 OF INTERSTATE COMMERCE

7 ACT

8 SEC. 3. Section 1 of the Interstate Commerce Act, as
9 amended, is amended (1) by inserting in subparagraph
10 (a) of paragraph (2) thereof, after the word "aforesaid"
11 and before the semicolon following that word, a comma and
12 the words "except as otherwise provided in this part" and
13 (2) by striking out the period at the end of the proviso
14 in subparagraph (a) of paragraph (17) thereof and in-
15 serting in lieu thereof the following: "and except as other-
16 wise provided in this part."

17 NEW SECTION 13A OF INTERSTATE COMMERCE ACT

18 SEC. 4. The Interstate Commerce Act, as amended, is
19 amended by inserting after section 13 thereof a new section
20 13a as follows:

21 "DISCONTINUANCE OR CHANGE OF CERTAIN OPERATIONS
22 OR SERVICES

23 "SEC. 13a. (1) A carrier or carriers subject to this part,
24 if their rights with respect to the discontinuance or change,

1 in whole or in part, of the operation or service of any train or
2 ferry engaged in the transportation of passengers or property
3 in interstate, foreign and intrastate commerce, or any of them,
4 or of the operation or service of any station, depot or other
5 facility where passengers or property are received for trans-
6 portation in interstate, foreign and intrastate commerce, or
7 any of them, are subject to any provision of the constitution
8 or statutes of any State or any regulation or order of (or
9 are the subject of any proceeding pending before) any court
10 or an administrative or regulatory agency of any State, may,
11 but shall not be required to, file with the Commission, mail
12 to the Governor of each State in which such train, ferry,
13 station, depot or other facility is operated, and post in every
14 station, depot or other facility directly affected thereby,
15 notice at least thirty days in advance of any such proposed
16 discontinuance or change. The carrier or carriers filing such
17 notice may discontinue or change any such operation or serv-
18 ice pursuant to such notice except as otherwise ordered by
19 the Commission pursuant to this section, the laws or con-
20 stitution of any State, or the decision or order of, or the
21 pendency of any proceeding before, any court or State au-
22 thority to the contrary notwithstanding. Upon the filing
23 of such notice the Commission shall have authority during
24 said thirty days' notice period, either upon complaint or
25 upon its own initiative without complaint, to enter upon an

1 investigation of the proposed discontinuance or change.
2 Upon the institution of such investigation, the Commission,
3 by order served upon the carrier or carriers affected thereby
4 at least ten days prior to the day on which such discontinu-
5 ance or change would otherwise become effective, may
6 require such train, ferry, station, depot, or other facility to
7 be continued in operation or service, in whole or in part,
8 pending hearing and decision in such investigation, but not
9 for a longer period than four months beyond the date when
10 such discontinuance or change would otherwise have become
11 effective. If, after hearing in such investigation, whether
12 concluded before or after such discontinuance or change has
13 become effective, the Commission finds that the operation
14 or service of such train, ferry, station, depot, or other facility
15 is required by public convenience and necessity and that
16 such operation or service will not result in a net loss there-
17 from to the carrier or carriers and will not otherwise unduly
18 burden interstate or foreign commerce, the Commission may
19 by order require the continuance or restoration of operation
20 or service of such train, ferry, station, depot, or other facility,
21 in whole or in part, for a period not to exceed one year from
22 the date of such order. The provisions of this section shall
23 not supersede the laws of any State or the orders or regula-
24 tions of any administrative or regulatory body of any State

1 applicable to such discontinuance or change unless notice
2 as in this section provided is filed with the Commission.
3 On the expiration of an order by the Commission after such
4 investigation requiring the continuance or restoration of
5 operation or service, the jurisdiction of any State as to such
6 discontinuance or change shall no longer be superseded
7 unless the procedure provided by this section shall again
8 be invoked by the carrier or carriers.

9 “(2) The provisions of this section shall not apply to
10 the operations of or services performed by any carrier by
11 railroad on a line of railroad located wholly within a single
12 State.

13 “(3) The Commission, in cooperation with State utili-
14 ties commissions, shall make a study of the passenger train
15 deficit problem and report thereon to the Congress not later
16 than June 30, 1959, together with such recommendations
17 as the Commission deems to be necessary or appropriate.”

18 AMENDMENT TO SECTION 15A OF THE INTERSTATE

19 COMMERCE ACT

20 SEC. 5. Section 15a of the Interstate Commerce Act, as
21 amended, is amended by inserting after paragraph (2)
22 thereof a new paragraph (3) as follows:

23 “(3) In a proceeding involving competition between
24 carriers of different modes of transportation, subject to this
25 Act, the Commission, in determining whether a rate is lower

1 than a reasonable minimum rate, shall consider the facts
2 and circumstances attending the movement of the traffic
3 by the carrier or carriers to which the rate is applicable.
4 Rates of a carrier shall not be held up to a particular level
5 to protect the traffic of any other mode of transportation,
6 giving due consideration to the objectives of the national
7 transportation policy declared in this Act.”

8 AMENDMENT TO SECTION 203 (B) OF INTERSTATE
9 COMMERCE ACT

10 SEC. 6. (a) Clause (6) of subsection (b) of section
11 203 of the Interstate Commerce Act, as amended, is
12 amended by striking out the semicolon at the end thereof
13 and inserting in lieu thereof a colon and the following:
14 “*Provided*, That the words ‘property consisting of ordinary
15 livestock, fish (including shell fish), or agricultural (in-
16 cluding horticultural) commodities (not including manu-
17 factured products thereof)’ as used herein shall include
18 property shown as ‘Exempt’ in the ‘Commodity List’ incor-
19 porated in ruling numbered 107, March 19, 1958, Bureau
20 of Motor Carriers, Interstate Commerce Commission, but
21 shall not include property shown therein as ‘Not exempt’:
22 *Provided further, however*, That notwithstanding the pre-
23 ceding proviso the words ‘property consisting of ordinary
24 livestock, fish (including shell fish), or agricultural (in-
25 cluding horticultural) commodities (not including manufac-

1 tured products thereof)' shall not be deemed to include
2 frozen fruits, frozen berries, or frozen vegetables and shall
3 be deemed to include fish or shell fish, and fresh or frozen
4 products thereof containing seafood as the basic ingredient,
5 whether breaded, cooked or otherwise prepared (but not
6 including fish and shell fish which have been treated for
7 preserving, such as canned, smoked, salted, pickled, spiced,
8 corned or kippered products) ;”.

9 (b) Unless otherwise specifically indicated therein, the
10 holder of any certificate or permit heretofore issued by the
11 Interstate Commerce Commission, or hereafter so issued
12 pursuant to an application filed on or before the date on
13 which this section takes effect, authorizing the holder thereof
14 to engage as a common or contract carrier by motor vehicle
15 in the transportation in interstate or foreign commerce of
16 property made subject to the provisions of part II of the
17 Interstate Commerce Act by paragraph (a) of this section,
18 over any route or routes or within any territory, may without
19 making application under that Act engage, to the same
20 extent and subject to the same terms, conditions and limi-
21 tations, as a common or contract carrier by motor vehicle,
22 as the case may be, in the transportation of such property,
23 over such route or routes or within such territory, in inter-
24 state or foreign commerce.

25 (c) Subject to the provisions of section 210 of the

1 Interstate Commerce Act, if any person (or its predecessor
2 in interest) was in bona fide operation on June 1, 1958,
3 over any route or routes or within any territory, in the
4 transportation of property for compensation by motor ve-
5 hicle made subject to the provisions of part II of that Act
6 by paragraph (a) of this section, in interstate or foreign
7 commerce, and has so operated since that time (or if en-
8 gaged in furnishing seasonal service only, was in bona
9 fide operation on June 1, 1958, during the season
10 ordinarily covered by its operations and has so operated
11 since that time), except in either instance as to interruptions
12 of service over which such applicant or its predecessor in
13 interest had no control, the Interstate Commerce Commis-
14 sion shall without further proceedings issue a certificate or
15 permit, as the type of operation may warrant, authorizing
16 such operations as a common or contract carrier by motor ve-
17 hicle if application is made to the said Commission as pro-
18 vided in part II of the Interstate Commerce Act and within
19 one hundred and twenty days after the date on which this
20 section takes effect. Pending the determination of any such
21 application, the continuance of such operation without a
22 certificate or permit shall be lawful. Any carrier which on
23 the date this section takes effect is engaged in an operation
24 of the character specified in the foregoing provisions of this
25 paragraph, but was not engaged in such operation on June

1 1, 1958, may under such regulations as the Interstate Com-
2 merce Commission shall prescribe, if application for a cer-
3 tificate or permit is made to the said Commission within one
4 hundred and twenty days after the date on which this section
5 takes effect, continue such operation without a certificate or
6 permit pending the determination of such application in
7 accordance with the provisions of part II of the Interstate
8 Commerce Act.

9 AMENDMENT TO SECTION 203 (C) OF INTERSTATE COM-
10 MERCE ACT

11 SEC. 7. Subsection (c) of section 203 of the Interstate
12 Commerce Act, as amended, is amended by striking out the
13 period at the end thereof and inserting in lieu of such period
14 a comma and the following: "nor shall any person in connec-
15 tion with any other business enterprise transport property
16 by motor vehicle in interstate or foreign commerce unless
17 such transportation is incidental to, and in furtherance of, a
18 primary business enterprise (other than transportation) of
19 such person."

A BILL

To amend the Interstate Commerce Act so as to strengthen and improve the national transportation system, and for other purposes.

By Mr. HARRIS

JUNE 5, 1958

Referred to the Committee on Interstate and Foreign
Commerce

9. SOIL BANK. Sen. Eastland's name was added as cosponsor to S. 2971, to permit unused funds appropriated for the conservation reserve program to be used for other conservation purposes. p. 9531
10. PERSONNEL. Received from the State Department a proposed bill "to encourage and authorize details and transfer of Federal employees for service with international organizations"; to Post Office and Civil Service Committee. p. 9527
11. DAIRY INDUSTRY. Sen. Wiley urged the maximum consumption of milk during June Dairy Month, and inserted the seven-point program to encourage the use of milk and milk products. pp. 9532-3
12. FOREIGN AID. Sen. Symington inserted three editorials commending Sen. Monroney's suggestion of an International Development Ass'n. pp. 9546-7
Sen. Clark inserted two articles which criticized the Administration's foreign policy. pp. 9539-41
13. FOREIGN TRADE. Sen. Clark inserted the Philadelphia City Council's resolution urging extension of the Trade Agreements Act. p. 9528
14. ECONOMIC SITUATION. Sen. Humphrey discussed the economic situation, inserted seven articles on the subject, and urged the Administration to act on anti-recession measures. pp. 9561-6
15. FLOOD CONTROL. Received from citizens of West Covina and Baldwin Park, Calif., a resolution on Los Angeles County Flood control plans and the President's veto of the flood-control and rivers-harbors bill. p. 9528
16. LEGISLATIVE PROGRAM. S. 3778, to strengthen and improve the national transportation system, was made the Senate's pending business (p. 9585).
Sen. Johnson announced that S. 49, the Alaska statehood bill, would be considered upon disposition of the labor bill and the atomic energy information and material exchange bills (pp. 9585-6).

ITEMS IN APPENDIX

17. WATER RESOURCES. Sen. Symington inserted an article describing the potential water resources of the Missouri Valley. p. A5274
18. ELECTRIFICATION. Extension of remarks of Sen. Wiley commending REA co-ops for their role in bringing electricity to rural families, and inserting excerpts from the Dairyland (Wis.) Power Cooperative report. pp. A5275-6
Rep. Berry inserted an article, "REA: Does It Still Have A Place In Our Economy?" p. A5300
Extension of remarks of Rep. Bow discussing a TVA Board of Directors news release which refutes certain charges against TVA. pp. A5308-9
19. FARM PROGRAM. Extension of remarks of Sen. Talmadge inserting a letter from the Georgia Bankers Ass'n endorsing his proposed farm program. p. A5277
Sen. Symington inserted Forest L. Goetsch, Doane Agricultural Service, Inc., letter to the editors of magazines discussing this Department's budget, the amounts spent for "farm subsidy," and stating that the facts show "that farmers have often been unjustly accused on this matter of subsidies." pp. A5283-4
Extension of remarks of Rep. Colmer urging early action on his proposed compensatory payments farm bill. p. A5292

Rep. Derounian inserted a Wall Street Journal article, "Freer Farmers: Congress Starts A Slow Move To Lower Props, Loosen Planting Curbs--Farm Bloc Grows Weaker As Lawmakers Fret Over Loss Of Cotton, Grain Markets--But Retreat Will Be Gradual." p. A5300

20. SMALL BUSINESS. Sen. Wiley spoke in favor of S. 3651, to make equity capital and long-term credit more readily available for small-business concerns. pp. A5278-9
21. DAIRY PRICES. Extension of remarks of Sen. Humphrey inserting an article, "Dairy Farmers Get Only 44 Percent of Milk Dollar," and stating it is "now quite evident that the dairy farmers are not benefiting at all from the recent activities of the Department of Agriculture in the price-support program." pp. A5279-80
22. ROADS. Sen. Kuchel inserted a magazine article by Sen. Neuberger, "A Milepost Through the Billboard Jungle," discussing the control of billboards along highways. pp. A5282-33
23. FOREIGN TRADE. Extension of remarks of Rep. Simpson, Pa., criticizing U. S. trade policies and the effects of such policies on the economy. pp. A5288-89
Rep. Schwengel inserted the statement of a witness for the National Retail Merchants Assoc. before the House Ways and Means Committee favoring extension of the Reciprocal Trade Agreements Act. pp. A5293-94
Rep. Porter inserted a news release and a telegram from 28 Congressmen to the President "urging him to rally members of his party in support of reciprocal trade legislation." pp. A5301-02
Rep. Morrow inserted a newspaper editorial discussing the importance and necessity of foreign trade. p. A5312
24. TEXTILES. Rep. Dorn inserted a table on employment in textile industries in selected countries as compared with the U. S. for 1947 through 1957, and a newspaper article, "May Employment Off 80,000 in Textile Industry." pp. A5298-99
25. AREA REDEVELOPMENT. Rep. Lane inserted a statement by the director of research, Textile Workers Union of America, "Current Depression Underscores Need for Area Redevelopment Legislation." pp. A5303-04
26. SURPLUS FOOD. Rep. Sullivan, Mo., inserted the testimony of the vice president of the National Catholic Rural Life Conference before the Consumers' Study Subcommittee of the House Agriculture Committee favoring enactment of legislation to establish a food-stamp plan for the distribution of surplus foods. pp. A5315-16

BILLS INTRODUCED

27. FARM LOANS. H. R. 12870, by Rep. Burdick, to provide for cancellation of certain feed and seed loans; to Agriculture Committee.
28. CREDIT UNION. H. R. 12877, by Rep. Multer, to amend the Federal Credit Union Act; to Banking and Currency Committee. Remarks of author. p. A5295
29. HOUSING. H. R. 12879, by Rep. O'Hara, Ill., to establish a Housing Conservation and Rehabilitation Finance Agency to provide loan funds for the conservation and rehabilitation of existing housing; to Banking and Currency Committee. Remarks of author. pp. 9680-7

for only in such a spirit will it be possible to legislate constructively for the good of all the country.

Mr. NEUBERGER. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. NEUBERGER. It seems to me that the Senator from Idaho has made a very fair and reasonable statement. I, too, was impressed unfavorably by the fact that the Secretary of Labor commented so speedily and hastily on this very detailed bill, and from across the width of an ocean and a part of the European Continent. He was so far away from the bill that he could not even have communicated with it by smoke signals. Yet he has made a peremptory criticism, a very sweeping and reckless condemnation of a bill which represents the studied views of a large majority of the Committee on Labor and Public Welfare. I felt that this, in and of itself, was enough to indict the validity of the Secretary's viewpoint.

I have the impression that the bill, which has been reported to the Senate, to deal with certain abuses that have been revealed in the trade-union movement, represents a very careful effort, on the part of many Senators of different political parties, different backgrounds, and different views, to reach a reasonable compromise.

For example, our good friend, the Senator from Michigan [Mr. McNAMARA], who presently occupies the chair, voted for the bill; yet I have no doubt that the Senator from Michigan regards the bill as too strong in certain respects. On the other hand, the able Senator from Arkansas [Mr. McCLELLAN], who during the past year or year and one-half conducted the investigation of the trade-union movement—and on whose committee the junior Senator from Idaho [Mr. CHURCH] serves—has, as I have understood, endorsed the bill. Yet I have no doubt that the Senator from Arkansas would like to have the bill somewhat stronger in some respects. Yet men of different attitudes and different perspectives on the whole trade-union movement, such as the Senator from Michigan and the Senator from Arkansas, have been able to unite on the bill, which soon will come before the Senate.

In my opinion, the fact that they have been able to do so is a tribute to the statesmanship of the Senator from Alabama [Mr. HILL], the chairman of the full Committee on Labor and Public Welfare, and to the Senator from Massachusetts [Mr. KENNEDY], who has so adroitly and so wisely synthesized all these different ideas and different recommendations into a reasonable bill.

But the ink on the bill was scarcely dry before the Secretary of Labor, from nearly 4,000 miles away, fired a great, sweeping fusillade from his retreat in the Alps. It seems to me that he could at least have waited until he left his mountain chalet, and returned across the ocean and had an opportunity to study the hearings and to know what was said to the committee and to know the information and data and records on which the committee based its study, before he so sweepingly attacked this measure.

Therefore, I desire to commend the Senator from Idaho for bringing this matter to the attention of the Senate.

Mr. CHURCH. Mr. President, I thank the Senator from Oregon for his very constructive contribution. I appreciate it very much.

Mr. MANSFIELD. Mr. President, will the Senator from Idaho yield to me?

The PRESIDING OFFICER (Mr. McNAMARA in the chair). Does the Senator from Idaho yield to the Senator from Montana?

Mr. CHURCH. I am pleased to yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I wish to commend the distinguished Senator from Idaho for the candid speech he has made this afternoon.

Yesterday, I was impressed when the senior Senator from New Jersey [Mr. SMITH] rose on the floor of the Senate and commended the Senator from Massachusetts [Mr. KENNEDY] and the Committee on Labor and Public Welfare for keeping the word which the Democratic leadership gave; namely, that by the 10th of June such a bill would be reported from the Committee on Labor and Public Welfare, and would be placed before the Senate for its consideration.

I have been somewhat amused, as well as disturbed, by the reaction of the Secretary of Labor—who is supposed to be the Secretary for Labor—who, from a distance of 3,000 or more miles and without seeing a copy of the bill as finally reported, was able to make minute and definite statements regarding the weaknesses of the bill.

How is the bill weak? Is it weak for labor, or is it weak against labor? Has the Secretary of Labor actually seen the bill which was reported by the committee; or has he seen one of the earlier versions?

I am afraid that the answer is that the Republican administration, in the person of the Secretary of Labor, is disappointed and disturbed that the Democratic leadership kept its word that a labor bill would be on the floor of the Senate, for consideration, by June 10. I believe it is to the credit of the Committee on Labor and Public Welfare that it was able, within the time limit, to report a bill of this nature, which is not yet on our desks, and which we have not yet had a chance to discuss, even though the Secretary of Labor knows all about it.

Certainly I agree with the Senator from Idaho that we should judge the bill calmly and dispassionately, and should do what we believe is in the best interests of organized labor and is in the interest of preventing the abuses by the few who have caused so much trouble.

So I thank the Senator from Idaho for the speech he has made this afternoon.

Mr. CHURCH. I thank the Senator from Montana for his remarks.

Mr. President, it seems to me to be plain that too much partisan, political flavor is to be found in connection with the fusillade of the Secretary of Labor, particularly when we consider the fact that the bill he has criticized from afar is considerably stronger than any proposal the administration has heretofore

made in the field of labor-management relations.

So it seems to me that the Senate should not be influenced unduly by such political bombardments, but should pursue the task before it, namely, that of passing a constructive piece of labor legislation, in an objective frame of mind, as the evidence is brought before it in this Chamber by those who are most closely connected with the problem, have participated in the hearings held by the Committee on Labor and Public Welfare, have sat in the McClellan committee for the last year and have judged the evidence there presented all of which is the basis underlying the labor bill which now has been reported.

TRANSPORTATION ACT OF 1958

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON of Texas. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1678, S. 3778, the national transportation bill.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The CHIEF CLERK. A bill (S. 3778) to amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas.

The motion was agreed to; and the Senate proceeded to consider the bill, which had been reported from the Committee on Interstate and Foreign Commerce with amendments.

LEGISLATIVE PROGRAM

Mr. JOHNSON of Texas. Mr. President, we do not expect any votes on the pending measure today. We do expect it to be thoroughly discussed tomorrow; and we hope a final vote can be taken on the measure tomorrow. The managers of the bill feel it will require 1 day's time. I have discussed the subject with the minority leader. As Senators know, an order has been entered for the Senate to assemble at 10 o'clock tomorrow morning.

Following the morning hour the Senate will resume the consideration of the unfinished business.

We expect to follow this measure with Senate bill 3974, the labor bill.

It is planned for the Senate to hold meetings the rest of the week, including a Saturday session, and including evening sessions. If consideration of the bill is not concluded this week, we shall consider it next week until it is disposed of.

We expect to follow the labor bill with the atomic energy information and material exchange bill, Calendar No. 1685, Senate bill 3912. I do not know how long that bill will require, but perhaps we can dispose of it in 1 or 2 days.

When action is concluded upon that bill, we shall proceed to the consideration of the Alaska Statehood bill, Calendar No. 1197, Senate bill 49.

We expect that to be the order which will be followed. I assume that some private bills may be considered in between; and, of course, appropriation bills will have the highest priority. There are at least two appropriation bills ready, and others may be reported to the Senate. If it is agreeable to Senators to take them up, we shall do so, certainly no later than 3 days after they are reported.

I want all Senators to be on notice that it is possible that the Senate will consider the State-Justice Departments Appropriation bill tomorrow or next day, if it can be cleared.

The Unemployment Compensation Appropriation Deficiency bill will be taken up when it can be cleared. I shall confer with the minority leader, the ranking members, and the chairman of the Appropriation's Committee before those bills are taken up.

I should like the Senate and the country to be on notice, however, that appropriation bills will be taken up, if necessary, before consideration of any of the other bills is completed, because they must go to conference, and we wish to dispose of as many of them as possible before the end of the fiscal year.

We have cleared Calendar No. 1153, House bill 7168, relating to policy and procedure in connection with construc-

tion contracts made by executive agencies. We expect to take that bill up, but I think it will follow the Alaska statehood bill.

We have cleared Calendar No. 192, Senate bill 495, a bill to acquire lots for parking facilities for the United States Senate. I am informed by the chairman of the Public Works Committee [Mr. CHAVEZ] and the chairman of the Appropriations Committee [Mr. HAYDEN] that certain amendments will be offered to that bill.

We have cleared Calendar No. 780, House bill 6282, a private relief bill, to which objection was made upon the call of the calendar. That bill will be taken up on motion, as will Calendar No. 1184, House bill 1804, a private relief bill; Calendar No. 1464, Senate bill 3195, to authorize certain retired personnel to receive foreign decorations; Calendar No. 1661, House bill 376, a bill to prohibit trading in onion futures in commodity exchanges.

Summarizing, we expect to take up the national transportation bill tomorrow; and as soon as we shall have concluded action on it—which we expect will be tomorrow evening—we shall take up the labor bill. If the Senate does not conclude action upon the national transportation bill tomorrow, it may be laid aside temporarily for the consideration of the labor bill anyway, because certain Members who cannot be present next Monday hope to have the labor bill acted upon this week.

We shall follow the labor bill with the atomic energy information and material exchange bill, Calendar No. 1685, Senate bill 3912.

That bill will be followed by the Alaska statehood bill, with the reserva-

tion that consideration of bills on the calendar to which there is no objection, conference reports, and appropriation bills may intervene at any time it is considered desirable, after due notice to the appropriate chairmen, minority Members, and the minority leader.

ADJOURNMENT TO 10 A. M. TOMORROW

Mr. McNAMARA. Mr. President, in compliance with the order previously entered, I move that the Senate adjourn until 10 o'clock a. m. tomorrow.

The motion was agreed to; and (at 4 o'clock and 51 minutes p. m.) the Senate adjourned, the adjournment being, under the order previously entered, until tomorrow, Wednesday, June 11, 1958, at 10 o'clock a. m.

NOMINATIONS

Executive nominations received by the Senate June 10 (legislative day of June 9) 1958:

IN THE ARMY

Maj. Gen. Robert Vernon Lee, O28882, Army of the United States (brigadier general, U. S. Army), for appointment as The Adjutant General, United States Army and as major general in the Regular Army of the United States, under the provisions of title 10, United States Code, section 3036.

Chaplain (Brig. Gen.) Frank Alden Tobey, O41698, United States Army, for appointment as Chief of Chaplains, United States Army, as major general in the Regular Army of the United States and as major general in the Army of the United States, under the provisions of title 10, United States Code, sections 3036, 3442, and 3447.

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued June 12, 1958
For actions of June 11, 1958
85th-2d, No. 94

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HIGHLIGHTS: Senate passed omnibus transportation bill. Senate passed State-Justice appropriation bill. House passed trade agreements bill.

HOUSE

1. FOREIGN TRADE. Passed with amendment, 317 to 98, H. R. 12591, to extend the authority of the President to enter into trade agreements. pp. 9773-83, 9825, 9826
Rejected, 147 to 234, an amendment by Rep. Simpson, Pa., to substitute the text of his bill, H. R. 12676, which would have extend the Trade Agreements Act for only two years and further restricted the President's authority to enter into trade agreements. pp. 9776-81
Rejected a motion by Rep. Hoffman that the bill be reported back to the House with a recommendation that the enacting clause be stricken. pp. 9780-81
Rejected, 146 to 268, a motion by Rep. Reed that the bill be recommitted to the Ways and Means Committee. p. 9782
2. DEFENSE PRODUCTION. The Banking and Currency Committee ordered reported H. R. 10969, to extend the Defense Production Act until June 30, 1960. p. D528
3. PERSONNEL. The Post Office and Civil Service Committee reported without amendment S. 1901, to grant overtime pay for irregular and unscheduled hours of work beyond regular tours of duty (for fire fighters, etc.) (H. Rept. 1870). p. 9827

4. COMMITTEE ASSIGNMENTS. Rep. James resigned from the Appropriations Committee. Rep. Cederberg was elected to the Committee. p. 9783
5. STATEHOOD. Both Houses received petitions from the city and county clerk of Honolulu, Hawaii, favoring statehood for both Hawaii and Alaska. pp. 9828, 9692
6. LEGISLATIVE PROGRAM. Rep. McCormack announced that the public works appropriation bill will probably be considered today, June 12. p. 9784.

SENATE

7. TRANSPORTATION. Passed with amendments S. 3778, to strengthen and improve the national transportation system (pp. 9715-22, 9735-67).

The bill includes a provision regarding the agricultural exemption clause of the Interstate Commerce Act, which was discussed in the committee report as follows:

"The committee favors a 'freeze' of the present status of the exemption recommended by the subcommittee. The committee further agrees that the 'freeze' should be on the basis of ruling No. 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, with the exception recommended by the subcommittee that the transportation of frozen fruits, frozen berries, and frozen vegetables be made subject to ICC regulation. Since ruling No. 107 does not list the items, such as fresh fruits and vegetables, about which there has been no controversy, the subcommittee language requires revision to reflect this condition.

"Further, the committee was in agreement that the subcommittee's language that 'imported agricultural products,' as distinguished from those produced domestically, be subjected to economic regulation should be eliminated. The problems engendered by commingling such imported products with domestic agricultural products, making the whole subject to regulation, would, in the committee's opinion, more than offset any gains to be made by subjecting imported agricultural products to regulation by the Commission."

Rejected an amendment by Sen. Beall, to exempt transportation of frozen fruits and vegetables from ICC regulation (pp. 9744-5, 9764).

8. HOUSING. The "Daily Digest" states that the Banking and Currency Committee approved for reporting by midnight, June 18, a clean bill entitled "Housing Act of 1958." As approved, the bill would "liberalize FHA insurance programs," "authorize a revolving fund of \$250 million to finance a new loan program to authorize the Housing Administrator to make loans to educational institutions for the construction of new, or rehabilitation of existing classrooms, laboratories, and related facilities, including equipment and utilities," and include provisions for "farm housing research, and surveys of public works plans." pp. D526-27
9. TRANSPORTATION. The Interstate and Foreign Commerce Committee ordered reported with amendment S. 3916, to extend for 2 years provisions of the Shipping Act of 1916 relating to dual rate contract arrangements. p. D527
10. WILDLIFE. The Interstate and Foreign Commerce Committee ordered reported with amendments S. 3185, to promote the conservation of migratory fish and game by requiring approval by the Secretary of the Interior of licenses issued under the Federal Power Act, and S. 3725, to promote the conservation of wildlife, fish, and game. p. D527

I do not believe these estimates are ungenerous. If the administration has other estimates, they have never revealed them. Is it not about time that the administration gave the country a monthly estimate of expected help from reduction of taxes, increase of expenditures, etc.—in fact, a survey the first of the month of the trends in the economy?

What is the administration afraid of? Indeed, they underestimated revenue for fiscal year 1959 by several billions. Had they shown historical sense at this point, they would not have made this mistake. In addition, expenditures will rise by a few billion beyond their January 1957, estimate for fiscal 1959. They seem to be scared of the rising deficit.

But they should have learned a long time ago, as most economists and an increasing group of businessmen have learned, that the way to keep a deficit down is to raise income; and the way to increase income is for the Government to reduce taxes and increase spending—in the midst of a recession. A continued economic decline can only further increase the deficit.

We are losing income at the rate of \$30 billion to \$50 billion a year. Is inactivity supportable under these conditions? Each month the administration waits, we lose \$4 billion, and, perhaps, about 700,000 man-years of employment. We do not deal with a leak in a tank by allowing the water to escape; we plug the hole.

We lose this income despite the fact that there are all kinds of public services that need attention—housing, care of the unemployed, urban redevelopment, school construction, and river development.

The Government should favor especially the expenditures that yield the largest returns in the shortest period both in stimulating the economy and helping those in distress. On this score aid for unemployment-compensation funds, redevelopment, and school and college construction stand high. Those who are fearful of large public expenditures can be appeased by selecting outlays that put the smallest burden on the Treasury, namely, loans and guaranties against grants, small subsidies for loans against outright grants.

We expect a greater degree of intervention by the Federal Reserve than we have had so far. Indeed, the Federal Reserve has reversed its policy. For this we give them credit. But the reversal was slow in coming and has not been aggressive enough. It is not enough merely to reduce discount rates or even make possible the reduction of borrowing by member banks. What is needed is a rise of several billion dollars in the reserves of member banks, inclusive of excess reserves.

The open-market operations of the Federal Reserve have been most inadequate. They are excessively concerned over the dangers of inflation.

The present danger is recession. We cannot afford to lose face in the one area where we are still strong—a well-functioning economy. Hence, let us be bold in our fiscal and monetary policies.

How silly are these buying campaigns, these appeals to labor and capital to be sacrificial, the attempts of the Federal Government to shift the responsibilities for recovery to the weakened State and local governments, and, to the contrary to their interest, operations, of the private economy.

A saturation of the capital market contributed to the recession; but just as a dear money policy and a changeover from an excess of spending to an excess of receipts by the Federal Reserve aggravated the recession and helped hasten it, so a drastic reversal

of these policies will soften the blows of the recession.

SEYMOUR E. HARRIS.

CAMBRIDGE, MASS.

(Professor Harris is chairman of the economics department at Harvard University.)

[From the Washington Post and Times Herald of June 11, 1958]

ADMINISTRATION ECONOMICS DEFENDED

In a letter to the editor on May 29, Prof. Seymour E. Harris (chairman of Harvard's department of economics) endeavored to comment on the administration's economic policy. It is not easy to divine what points he is trying to make or what policies he would have pursued, but he seems to be unhappy—apparently on three counts.

First, the administration has not taken vigorous fiscal measures, and those which have been taken have been forced upon the administration by a Democratic Congress or have been automatic results of built-in stabilizers. Second, because our productive capacity is not fully employed, we are losing a lot of production. Third, Federal Reserve actions have not been sufficiently aggressive.

The first charge is hardly based on the record. The administration months ago initiated a program to accelerate procurement and obligations for needed projects. The Director of the Bureau of the Budget recently estimated that Federal outlays in the next fiscal year would be at least \$78 billion, an increase of \$5 billion over the fiscal year now ending.

It is, of course, true that the President has opposed using recession as an excuse to initiate the kind of wholesale increase in Federal spending which would accomplish little except to leave the Federal budget in shambles for years to come. He has objected to some long-range spending programs disguised as so-called "antirecession" measures, pointing out that they could not be initiated quickly enough to help significantly in relieving the current unemployment.

The administration has also been cool to certain measures which would really have the effect of switching projects (most of which would be undertaken anyhow) from normal financing through the private bond market to financing through the Federal budget. But there has been no hesitation about accelerating expenditures on needed projects.

In a series of actions dating back to August 1957, for example, the administration has taken steps to encourage home building, and the outlook for housing construction is at present reasonably promising.

It's hard to understand Professor Harris' charges about a reluctant administration having to be pushed by a Democratic Congress when we look at one of the most sorely needed actions in the current recession—extension of unemployment compensation to cover for a further period those who had exhausted their benefits. This measure became law on June 4, though the President's request to the Congress for this action was made on March 25. This is not the record of a reluctant administration and an eager Democratic Congress.

It is not completely clear from the letter whether Professor Harris is unhappy with the administration for not having sponsored a major tax reduction. If so, he must also be unhappy with the leadership of the Democratic Party to which he has so closely attached himself and which controls the Congress.

Professor Harris is concerned about the loss of production during the recession. So are we all. It is important, therefore, that the

economic imbalances which have played a key role in the recession be corrected promptly, so that the economy can move on to a vigorous pace of balanced economic expansion. Though the letter contains no clear and explicit statement of what Professor Harris would do, he seems to be proposing that the economy be put under more forced draft through enlarged Federal deficits of little current benefit. If so, it is clear that he is really proposing chronic inflation, which could only lead to direct controls over wages and prices, a real economic smashup, or both.

Professor Harris is also unhappy about the Federal Reserve's policy. While the Federal Reserve has moved vigorously to ease credit, there can, of course, be a difference of judgment about the timing and extent of these actions. But there is no room for argument on one matter. The Federal Reserve is not responsible to the White House. The President cannot tell it what to do. It is the agent of Congress and reports to the Congress. Only the Congress can tell it what to do.

The Congress is controlled by Professor Harris' party, but to date the Democratic leadership on the Hill has not seen fit to direct the Federal Reserve to change what it's doing. I have openly challenged them on the floor of the Senate to do this, but, of course, they know better than to try it. All of this Professor Harris should know.

He may also know how curious some of his points must be. He charges the administration with having "underestimated revenue for fiscal year 1959 by several billions." This will be news to those who have been criticized for overestimating revenues for fiscal year 1959. He alleges that "a change-over from an excess of spending to an excess of receipts by the Federal Reserve aggravated the recession and helped hasten it, [and] a drastic reversal of these policies will soften the blows of the recession." Students of central banking would puzzle for a good long while at this curious jumble of meaningless words—except for the fact that they will probably ignore it.

PRESCOTT BUSH,
Senator from Connecticut.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TRANSPORTATION ACT OF 1958

Mr. SMATHERS obtained the floor.

Mr. MANSFIELD. Mr. President, will the Senator from Florida yield to me? Mr. SMATHERS. I am happy to yield.

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of Senate bill 3778, to amend the Interstate Commerce Act so as to improve and strengthen the national transportation system.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. 3778) to amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes.

Mr. MANSFIELD. Mr. President, under the rules of the Senate, only a certain number of committee staff members are allowed to be on the floor during the debate on a bill. I wonder whether the

distinguished Senator who is in charge of the bill cares to request unanimous consent that additional staff members be allowed the privilege of the floor.

Mr. SMATHERS. Mr. President, I so request. The bill is a highly complicated one, and covers a variety of subjects which are very technical in nature. For that reason, I ask unanimous consent that the staff members of the Subcommittee on Transportation be permitted the privilege of the floor.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

Mr. DIRKSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMATHERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SMATHERS. Is the morning hour concluded?

The PRESIDING OFFICER. The morning hour is concluded. The unfinished business is S. 3778.

Mr. SMATHERS. Does the Senator from New York desire to make a unanimous-consent request?

Mr. JAVITS. No, I do not.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SMATHERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NEUBERGER in the chair). Without objection, it is so ordered.

Mr. SMATHERS. Mr. President, the measure before the Senate is the Transportation Act of 1958, which started specifically as a railroad bill, a bill designed to see if we could not bring about some relief in the deteriorating railroad situation. Hearings were begun early in January, and they lasted until the middle of May.

Let me say for the benefit of Senators and others that it has never been my privilege before, either as a Member of this House or as a Member of the other body, to serve on a committee or a subcommittee in connection with which there was more faithful and loyal attendance. The members of the subcommittee evidenced a great interest, knowledge, and concern with respect to the problems which were raised. The very able Senator from Kansas [Mr. SCHOEPPPEL] is senior to me in point of service in the Senate, but by virtue of the way the political chips fall, I happen to be chairman of the subcommittee rather than he. However, he sat in the hearings as a minority member of the subcommittee, and saw to it that no politics or partisanship was discussed or injected in any fashion whatever. There

was none in this particular consideration.

I am grateful to the Senator from Kansas for his faithful and loyal attendance during the long series of hearings which were held; for his keen interest in and alertness to the problems which were presented; and for his very constructive suggestions as to how to meet the particular problems which arose. His services were greatly appreciated, not only by me, as chairman of the subcommittee, but by the other members of the subcommittee.

I am also grateful for the very faithful service of the junior Senator from Ohio [Mr. LAUSCHE]. We like to think of him as not only the conscience of the subcommittee, but to a considerable degree the conscience of the Senate. He is a man dedicated and devoted to fine principles. His understanding of these problems, in relation to his principles, in my judgment won the admiration not only of members of the subcommittee, but of all the witnesses who appeared. He was fair. He was straightforward. He was regular in his attendance. He was constructive when we were trying to solve problems. I am personally grateful to him, and I know that every other member of the subcommittee is equally grateful.

The able junior Senator from Connecticut [Mr. PURTELL], who is not now in the Chamber, was present on almost all occasions. He has a background of success in business in his State of Connecticut. By virtue of his experience he was able to be most helpful to us in connection with some of the highly complex financial problems which continued to arise in connection with the question of helping the railroads and improving our overall transportation system. He made some very constructive suggestions, and his contribution to what was finally arrived at by the subcommittee was indeed great.

Another member of the subcommittee was the junior Senator from Texas [Mr. YARBOROUGH]. He was involved in a campaign in his home State, but he attended our meetings whenever he could; and whenever he was present he made a fine and constructive effort, and contributed greatly to bringing about a good bill.

I should like also to mention two members of the full committee. The chairman of the full committee, the Senator from Washington [Mr. MAGNUSON], has an absolute genius for bringing together those representing diverse interests and Senators with conflicting ideas. He was always very helpful to us, and when we encountered a particularly difficult situation, it was the Senator from Washington who was able to bring us together and provide leadership at a time when it was needed. His part in the bill was very considerable, and in my judgment he deserves a great deal of the credit for what has been done.

I should like also to mention the senior Senator from Ohio [Mr. BRICKER], who has long been interested in the problem of transportation. He was formerly chairman of the full committee. He sat with us on many occasions; and when we were faced with particu-

larly complex problems he was very helpful to us and very constructive in the suggestions he made and the questions which he raised. His contribution to the bill has been very great.

Mr. President, I have a brief general statement which I should like to make. However, I understand that the able senior Senator from Kansas [Mr. SCHOEPPPEL], who is present in the Chamber, wishes to make a few remarks. I am very happy to yield to him.

Mr. SCHOEPPPEL. Mr. President, I wish to say to the junior Senator from Florida, chairman of the subcommittee, that I genuinely and deeply appreciate what he said in his opening remarks with respect to the activities of the subcommittee, and his comments with respect to the Senator from Washington [Mr. MAGNUSON] and the Senator from Ohio [Mr. BRICKER], who are members of the full committee.

Let me say at the outset that this entire proceeding calls for a great deal of patience, understanding, and attention to the details involved in the hearings. I do not know that I have ever served on a subcommittee or on any full committee of which I have been privileged to be a member, where there has been any finer type of cooperation.

I commend the junior Senator from Florida for his understanding and patience in trying to focus attention upon the problems which developed as the witnesses testified.

Practically all Members of the Senate, and many persons who have followed the railroad situation, know that the railroads are in a precarious position. I shall not at this time go into subjects which I know the Senator from Florida will cover. However, I know that on many occasions conflicting interests sought to be heard. On a number of such occasions the junior Senator from Florida, after counseling with the representatives of conflicting groups, was able to bring them together on many points which will be before the Senate in the consideration of the bill. If the situation had not been handled in that way, I am sure we would not have such an excellent bill before the Senate today.

The railroad witnesses appearing before our subcommittee presented a broad picture of economic and financial problems facing the rails. Presidents representing most of our greatest railroads presented evidence of their own particular situations. While some railroads are in what may be termed a prosperous condition, they are, in the main, exceptions.

Generally, we found that the railroads were suffering from a loss or decline of traffic, caused by many factors, as the hearings will disclose to those who are interested in reading them. Their position has continued to decline for many months, and, for that matter, for several years. In my opinion, we are dealing with a sick industry.

If this continuing deterioration were to be permitted to continue, I fear the impact upon our Nation's economy would lead to dire consequences. I need not dwell upon what might happen if we should permit 2 or 3 or more of our country's large railroads to go bank-

rupt. Precisely that is what may happen unless we take action now, as we view it, to aid this industry. It is our obligation to prevent a serious weakening and threatened breakdown of our transportation system.

It is in the national interest to maintain a sound transportation system, not merely that afforded by the railroads, but for all modes of transportation. That was forcefully brought to our attention by witnesses who were not in the railroad-transportation business as such. The proposed legislation is not only for the benefit of the railroads, but for all modes of transportation.

Each mode has its particular advantages and some disadvantages. Each has made its great contribution to our economy, and I believe each is deserving of our attention. We must have a healthy and adequate transportation industry.

Our railroads have been outstanding examples of the American free-enterprise system. While regulated by law, they are private businesses. They have always been privately owned and financed. They have been privately operated and self-supporting generally. They have been paying taxes to local communities, States, and the Federal Government.

It would be hard for me to believe any of the Members of this distinguished body would want to see that situation changed.

I believe we have an opportunity here to pass a constructive bill which will help this industry regain its previous position. If we fail to do that, we have another alternative. I hope I shall never see the day when it appears that the only solution to such a complex problem is the nationalization of our railroads. Yet such a result may face this industry if it is permitted to deteriorate.

Our railroads perform a needed service in our economy. It is essential, if for no other reason than national defense, that our railroads maintain a strong competitive position in our transportation scheme of things.

I shall not attempt to cite additional statistics to prove the need for this proposed legislation. Freight and passenger traffic, along with resultant revenues, has declined. Labor and materials have, during the same time, increased in cost. Many railroads, particularly those in the eastern part of the United States, have been caught in this economic squeeze. Many of the western and southern roads have a larger territory to cover, more traffic, with higher earnings and additional sources of revenue from nonrailroad enterprises. While the western and southern lines have been better off, they, too, are feeling the decline in traffic and the additional increases in operating and maintenance costs, and as a result they too are facing reduced net earnings.

The railroad industry has had a difficult time maintaining adequate capital reserves. It is well known in the investment business that the rate of return has been very low in this industry. It has, as a consequence, had great difficulty in obtaining outside investment capital. That was repeatedly brought to the attention of the committee. Testimony was received by the subcommittee that certain

railroads had exhausted credit resources available to them from private banking and lending institutions.

From what I have previously said, one might draw the conclusion that this industry has done little to help itself. Such a conclusion is not warranted. It is not the case. This industry has been taking advantage of every technological advance which could be utilized. From dieselization to electronic yards, these improvements have resulted in better service and reduced costs to the customer. But this advance has been slowed by the need for capital funds. Each large improvement program has cost vast sums of money. While some rate increases have been made in the postwar period, they have not provided sufficient funds to embark on large-scale improvements; in fact, the increases have not kept pace with advances in prices paid for services and goods during this period of rapid inflation.

We all know that the history of complex legislation is frequently one of compromise. In the pending bill, S. 3778, there are several such compromises which represent concerted and cooperative efforts by all parties, including members of the committee and representatives of the competing modes of transportation. Section 5, dealing with competitive ratemaking, is one such section.

With the present language in this section—which all modes of transportation now accept—material benefits can result to the railroad industry generally. I believe the industry must have greater freedom to make reduced rates. Under this section the Interstate Commerce Commission cannot hold up the rate of a carrier to any particular level in order to protect the traffic of another mode of transportation. Under this provision, any mode of transportation will continue to enjoy the advantages which accrue to it, whether it be by the nature of the service rendered or by lowered cost.

I have some reservations concerning section 6 of S. 3778. In the opinion of our committee a guaranteed loan program is essential. I am hopeful this program, if it is finally adopted, will never become permanent. It is designed for temporary relief, and I understand there may be some question about our approach to the problem. I am hopeful that the Interstate Commerce Commission will provide sufficient regulations so that the program can be effective. Such regulations need not be burdensome; but they should be strict enough to protect the taxpayers of the Nation, whose money is being used.

With reference to the provisions of section 8 of the bill, relating to the so-called agricultural commodities clause, I believe that the intent and purpose of this section has been twisted by judicial interpretation and construction so that the present situation is far from what the framers of this provision intended. Originally, this was designed to be a protection for the farmer and the agricultural producer, as an aid in moving their produce and crops to market. Today, little, if any advantage accrues to the man on the farm. The packer or dis-

tributor or processor largely benefits. I believe we must take action to tighten up this and other provisions in the Interstate Commerce Act. By so doing we will not be prejudicing any interests of the farmer.

It is my firm conviction that section 9, as reported by our committee, is very much needed. What we will achieve by enactment of provisions based on the Brooks Transportation Co. case will in no way interfere with legitimate private carriage of goods.

It is appropriate at this stage to emphasize the intention of the committee to regulate motor transportation when such transportation is not clearly and specifically exempt, and to make certain that we preserve a necessary and realistic distinction between regulated transportation and private transportation. Originally we would have added to section 203 these words: "nor shall any person in any other commercial enterprise transport property by motor vehicle in interstate or foreign commerce unless such transportation is solely related to and in furtherance of a primary business enterprise (other than transportation) of such person."

However, we were advised that the term "solely related to" is new and untried, while the substitute words "incidental to" are well understood and were employed by the court in the Brooks case when it approved and interpreted the Interstate Commerce Commission's "primary business" test. Accordingly, following precedent, we substituted "incidental to" for the term "solely related to." The "primary business test" would thus embrace both factors; "incidental to" and "in furtherance of" such primary business enterprise.

We intended to make it impossible for a private carrier to transport nonexempt goods of others for any form of compensation. The intention is to do no more and no less than the Commission and the Court did in the Brooks case. In doing so we wish to recognize private carriage in its proper role, and to discourage evasion of regulation by those intended to be included within its terms.

I earnestly hope that we will be able to pass the bill. It would be constructive transportation legislation. Passage of S. 3778 would benefit our transportation system.

I know that the chairman of the subcommittee [Mr. SMATHERS], as he has done on other occasions during the committee's deliberations, will discuss the measure section by section. I feel certain that with the history of the measure as it is contained in the report and in the RECORD, and with the colloquy on the part of those interested in the bill in various and sundry capacities, we can pass a realistic and, I hope, a constructive bill, which is urgently needed now, if anything constructive is to be done to save our great railroad transportation system, the only transportation system in the world today which is privately owned and operated and pays so large an amount of taxes to the Nation.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. SCHOEPPPEL. I yield.

Mr. AIKEN. I am glad to hear the Senator from Kansas express apprehension over section 6. I think my apprehension goes somewhat further than his does. I do not believe we should pass a bill which establishes a conflict of interest within an agency of the Government such as this bill will establish if it becomes law. I hope that a correction will be made in this section before the bill is passed, if it is passed.

The Interstate Commerce Commission was created to protect the public interest. It seems to me, however, that section 6 vests the Interstate Commerce Commission with the authority to make loans to the railroads under certain terms. It charges the Commission with looking after the welfare of the railroads. This represents a definite conflict of interest. This is the kind of provision which gave great concern to the Hoover Commission and to other regulatory agencies 10 years ago.

Steps have been taken to get the Interstate Commerce Commission, the Federal Power Commission, and the Maritime Commission out of the executive field. It is impossible for any regulatory agency to protect the public interest and at the same time to take the part of one of the litigants.

I hope the apprehension of the Senator from Kansas will be shared by a sufficient number of Senators so that this provision will be changed. I am not arguing against providing adequate financing for the railroads, if that is needed. I think such financing probably is necessary. But certainly I would never put the financing in the hands of an agency which is charged with regulating the carriers. I hope the provision will be changed before the bill is sent to the President for approval. If it is not changed, I hope the bill will not be signed, because this provision is one of the clearest violations of the principles of good government which could be devised.

Mr. SCHOEPPEL. The Senator from Vermont, who is the ranking Republican member of the Committee on Agriculture and Forestry, has pointed out some matters which gave the subcommittee concern in its consideration of the measure. I know there is a difference of opinion about it. But I feel certain that the chairman of the subcommittee will analyze certain phases of the discussions which were held and that this statement will help us to make determinations about the changes it may be necessary to make in the bill.

Mr. AIKEN. Certainly, however, a regulatory agency should never be charged with the financing of the industry which it is charged with regulating in the public interest.

Mr. SMATHERS. That particular question was raised before the subcommittee.

Mr. AIKEN. Yes.

Mr. SMATHERS. There was much debate about the channel which should be followed. It was finally determined that the best channel to follow was the one for which there was a precedent. The precedent which was followed was the Transportation Act of 1920. At

that time the Government was in the business of lending money to the railroads, and the Interstate Commerce Commission was then given the authority actually to lend the money to the railroads. In this instance, I think it should be clearly understood that the Government itself will not lend the money; the Government will merely underwrite and guarantee the loans.

Mr. AIKEN. That is correct. It amounts to the same thing. It finances the railroads.

Mr. SMATHERS. The railroads will still have to procure the money from the regular sources from which money is ordinarily borrowed. The Government will not supply any money.

But the Interstate Commerce Commission has within it a Bureau of Finance which, in fact, knows more about the railroads and their actual financial conditions than does any other agency. The Bureau of Finance has set up its own system of bookkeeping, which is very different from the system followed by most corporations. So it was believed that that particular agency was the best one to recommend that a guaranteed loan should be made to a particular railroad. The Transportation Act of 1920 was followed in providing for this procedure.

Mr. AIKEN. If that line of reasoning is to be followed, then the Federal Power Commission should be handling the REA loans. I think this proposal is wrong. I hope Congress will correct the situation. Congress has worked hard in the past 10 years on this subject, and has undertaken, generally successfully, to take the regulatory agencies out of the business of financing the entities of which they are charged with regulating.

Mr. SMATHERS. The Maritime Commission, which actually has jurisdiction over the maritime industry, today is the particular instrumentality which recommends the loans which are to be made to the various maritime companies.

Mr. AIKEN. I would not say that Congress was 100 percent successful in taking the Maritime Commission out of the maritime industry. We were partially successful, because even though the Maritime Commission recommends in matters of finance, there is another agency which actually handles the business.

Mr. SMATHERS. It is the maritime agency which, of course, gives approval to whether or not a loan will be made to a certain company. It is the Maritime Commission which finally makes the decision.

The subcommittee shares the concern of the Senator from Vermont. We believe that in the light of the precedent of 1920, plus the precedent of the Maritime Commission, it is better to guide the proposal in this way than it would be to route it through some other agency.

Mr. AIKEN. Congress in the past 10 years has indicated its intention of not abiding by that precedent, which was established 35 years ago. I was wondering if any of the parties concerned were insisting that the lending or the guaranteeing authority be lodged with the Interstate Commerce Commission.

Mr. SMATHERS. No.

Mr. AIKEN. All the other financing and guaranteeing done by the Government is through agencies which are not regulatory agencies.

I think this proposal is a serious mistake. I am willing to go along with the proposal to finance the railroads. I think some of the railroads urgently need financing. I do not want my statement to be understood as opposition. It does not mean that I shall vote against the bill finally, because I realize that the House must act on it, and the House may be a bit more hardboiled and businesslike in this respect than was the Senate committee.

I appreciate the difficulties which the Senator from Florida and the other members of the subcommittee had in reporting a bill at all. I think the committee has done very well. But I think there are 2 or 3 errors in the bill, and this is the most glaring one, in my opinion. I hope that before the bill is sent to the President, the errors will be corrected.

Mr. LAUSCHE. Mr. President, the Senator from Vermont asked whether any particular interest had urged that the administrative power be placed in the Interstate Commerce Commission.

I am a member of the subcommittee; and I can say positively that I, at least, heard of no such urging by anyone.

From my standpoint, I supported the proposal that the Interstate Commerce Commission be given this administrative power, because I believe it has the basic information which should be used in determining whether a loan should or should not be guaranteed. I have no fixed judgment on the provision, except that rooted in the reasons I have just outlined.

However, a commission is somewhat insulated from responsibility to the public; and it might be argued that it is necessary to fix responsibility in someone in the administration who can be held responsible.

But I formed my judgment solely on the basis that whoever had the administrative power would in all probability have to go to the Interstate Commerce Commission and request it to supply the basic information which would disclose the fiscal standing of the railroad which had requested a loan.

Mr. AIKEN. I think there could be no objection to that, namely, to get the proper information from the Interstate Commerce Commission. However, if the bill as written is enacted, I believe it would be virtually impossible for a member of the Interstate Commerce Commission not to feel a rather grave responsibility to keep any railroad from going into bankruptcy. On the other hand, perhaps the time might come when bankruptcy for one railroad or another might be warranted; the railroad might have outlived its usefulness, and might have to give up the ghost. I do not think we should guarantee a railroad perpetual operation, regardless of cost.

Therefore I believe there is a real conflict of interest in this case.

Mr. LAUSCHE. What reason was advanced several years ago when it was

urged that none of these lending powers be given to commissions, but that they be lodged in some department of the Federal Government administration?

Mr. AIKEN. Although I helped write the recommendations at the time, and have been trying to refresh my memory this morning, I am not in a position to going to all the details now.

But the Hoover Commission definitely took the position that regulatory commissions should not be engaged in executive business of any kind; and in that recommendation I thoroughly concur. We have been partially successful in having our recommendations adopted. I think the instance mentioned by the Senator from Florida in the case of the Maritime Administration probably relates to the recommendation which has been least fully complied with.

Mr. LAUSCHE. Did the Hoover Commission recommend that this power not be placed in the Commission?

Mr. AIKEN. Yes; that was the Hoover Commission's very strong recommendation, in its 1948 report, as I recall.

Mr. LAUSCHE. The last time I heard of any particular interest on the part of the administration in the agency in which this administrative power would be vested was through a letter which I received a few days ago from Secretary Weeks.

Mr. AIKEN. I have not seen a copy of the letter. However, this morning I communicated with representatives of the administration; and I find that they are opposed to this provision.

If I had Secretary Weeks' letter to read, I would know more about the matter in detail.

But I am simply going back 10 years to the study which was made by the Hoover Commission, as a result of which it was found that one of the bad things being done was that regulatory commissions were requested to perform administrative functions.

It may be that this proposal will be straightened out in some other way. I hope it will.

Mr. SCHOEPPPEL. Mr. President—The PRESIDING OFFICER (Mr. NEUBERGER in the chair). Does the Senator from Florida yield to the Senator from Kansas?

Mr. SMATHERS. I yield.

Mr. SCHOEPPPEL. Apropos what the Senator from Vermont and the Senator from Ohio have said, I wish to state for the RECORD, for the benefit of my distinguished colleague, the Senator from Vermont [Mr. AIKEN], that in the deliberations of the committee on this matter and in its approach to it, at no time did we ever have any suggestion of any type or kind that this power should be placed in the Interstate Commerce Commission.

I say frankly and candidly to the Senate that we were trying to approach the matter in the proper way; and, so far as I was concerned, I was trying to think of it in terms of an operation of short duration in an emergency situation. We considered the bill to be a temporary measure, and not one of a permanent nature.

Personally, I had very decided feelings against establishing a new agency which would continue in being and would grow.

As I have pointed out in my statement, I hesitated to think that there would be a continuing operation.

Once we establish an agency, we often have great difficulty getting rid of it.

We did not wish to provide for duplication of a present agency which has the necessary machinery and know-how available.

As has been pointed out by the Senator from Florida, there is also the accounting phase of the matter; and there were the proceedings, to which the Senator has referred, in connection with previous legislation during the war.

So we felt that, considering the temporary nature of this measure, the Interstate Commerce Commission would be in a better position to handle this particular phase of it, in making a temporary approach. On that basis, I was willing to go along with an approach of this kind.

Mr. AIKEN. Does the pending bill provide a termination date? It has been referred to as a temporary financing measure. From the bill, I find that loans can be made for periods up to 15 years.

Mr. SCHOEPPPEL. I believe we were talking in terms of a 5-year period.

Mr. AIKEN. Somewhere in the bill I read a provision to the effect that loans could be made for a period up to 15 years, and could be extended if the condition of a railroad necessitated such extension and if in the view of the Interstate Commerce Commission it was warranted. Perhaps the 15-year limitation was included more as a guide regarding the length of the life of the loans.

Mr. SMATHERS. The bill contains the following provisions:

(4) No guaranty shall be made under this section—

(A) unless the Commission is of the opinion that the proposed loan is necessary or appropriate to effectuate the purpose of this section;

(B) unless the Commission is of the opinion that without such guaranty the applicant carrier would be unable to obtain necessary funds, on reasonable terms, for the purposes for which the loan is sought;

(C) if the loan involved is at a rate of interest which, in the judgment of the Commission, is unreasonably high, or if the terms of such loan permit full repayment more than 15 years after the date thereof;

(D) unless the Commission is of the opinion that the prospective earning power of the applicant carrier, together with the character and value of the security pledged, if any, furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and reasonable protection to the United States.

(E) unless the Commission is of the opinion that the applicant carrier is not in need of reorganization of its capital structure.

In other words, if they are of the opinion that a railroad is likely to go bankrupt, anyway, of course they will not make the loan.

Mr. AIKEN. I would not quarrel with the conditions laid down by the subcommittee in regard to the making of a loan, and I really am not arguing the merits of the bill. I am simply speaking from the standpoint of a desire to obtain a good, workable setup in the Federal Government. In my opin-

ion, a regulatory commission should not be engaged in business.

Mr. SMATHERS. I think one of the greatest criticisms which can be directed against our Government and certain regulatory agencies is on the basis of the enormous amount of delay that occurs.

So when we can vest in an agency which already has the necessary information and, we might say, the know-how with respect to a specific problem, and some authority to deal with it, then of course we obviously eliminate much of the cause of delay which otherwise would occur if the necessary information had to be obtained from one commission, but another agency had to make the decision.

The Commission is obviously the best agency equipped to determine whether (a) a railroad is really in need of the loan, and (b) whether there is any prospect of the railroad repaying the loan, because the Commission is the body that fixes the freight rates, assigns the routes, prescribes what the railroads can carry and where the railroads can go. The Commission also knows what the competition is. So the Commission is really the agency that has all the information which is vital in order to arrive at a determination as to whether a loan is needed.

Rather than to take that authority away from the Commission, which in fact does have all that information, and is able to do the job competently, and provide that the Commission may make suggestions but that Congress will create another agency to do the same thing the Commission can do, establish another bureau, and go over the same procedure a second time, it was the subcommittee's judgment that it would be better, and would avoid unnecessary expense in Government operations, since there would be fewer Government employees, if we placed this particular work in the hands of the agency which now knows all about the problems which are involved. That was the conclusion of the subcommittee.

Mr. SCHOEPPPEL. Mr. President, if the Senator from Florida will indulge me, with reference to the question asked by the Senator from Vermont, I refer to page 16 of the report as the basis for the Senator from Kansas referring to it as temporary legislation in certain respects. I read from that page of the report:

Other important features of the proposal include provisions that:

The Interstate Commerce Commission shall prescribe the security, if any, that is to be required; the term of a loan eligible for guarantee shall not exceed 15 years; no dividends shall be paid by a carrier so long as any loan guaranteed by the Government under this provision is outstanding—

This is the pertinent matter which I should like to point out—

the authority to guarantee loans shall terminate December 31, 1960, unless further extended by the Congress.

That is how we have tried to put safeguards around this temporary type of proposed legislation.

Mr. President, at this time I yield the floor.

The PRESIDING OFFICER. The clerk will state the first committee amendment.

The first committee amendment was on page 7, after line 11, to strike out:

"(3) In a proceeding involving competition with another mode of transportation, the Commission, in determining whether a rail rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by railroad and not by such other mode."

And, in lieu thereof, to insert:

"(3) In a proceeding involving competition between carriers of different modes of transportation subject to this act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this act."

Mr. WILLIAMS. Mr. President—

Mr. SMATHERS. Mr. President, if the Senator from Delaware will yield to me for a moment, I should like to say that the Senator from Kansas has ably discussed some of these sections. I should like to discuss them to some extent. I know the Senator from Delaware has a question he wants to raise, and I think the Senator from Maryland [Mr. BUTLER] has a question he desires to ask.

I may say I am grateful to the able Senator from Kansas, not only for his contributions to the deliberations of the committee, but for the kind remarks he has made about the junior Senator from Florida on this occasion. I recognize he has displayed his characteristic generosity toward his friends, and I am proud to be included as one of them.

Mr. President, briefly, I should like to make this statement. We are quite proud of the report of the committee on the bill. It was arranged in such a way that the problems of the railroads were first discussed. We had to decide whether there was a need for doing anything. The evidence was overwhelming that there did exist a real and urgent need for something to be done. That having been established, the question arose as to what should be done.

The report went into the decline of the railroad business, and also what the railroads could do to help themselves. We did not feel that the manner in which the railroad industry was operated was, like Ivory soap, 99.44 percent pure.

Mr. President, I yield now to the able senior Senator from Arizona [Mr. HAYDEN].

ADDITIONAL SUPPLEMENTAL APPROPRIATIONS FOR THE DEPARTMENT OF LABOR

Mr. HAYDEN. Mr. President, I move that the Senate proceed to the consideration of House Joint Resolution 624, making additional supplemental appropriations for the Small Business Administration and the Department of Labor.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The LEGISLATIVE CLERK. A joint resolution (H. J. Res. 624) making additional supplemental appropriations for the Department of Labor for carrying into effect the provisions of the Temporary Unemployment Compensation Act of 1958, and for other purposes.

The PRESIDING OFFICER (Mr. MANSFIELD in the chair). The question is on agreeing to the motion of the Senator from Arizona.

The motion was agreed to; and the Senate proceeded to consider the joint resolution, which had been reported from the Committee on Appropriations, with amendments.

Mr. HAYDEN. Mr. President, the joint resolution contains \$20 million for the Small Business Administration. The additional funds are required at this time because of a recent unprecedented increase in business loan applications and a large number of excessive rainfall disaster applications. The request from the President for these additional funds was received too late to be considered in the House committee.

I am advised that the House will accept the provision which has been included in the bill affecting the Small Business Administration since we have agreed on \$20 million, rather than \$5 million as proposed in the budget estimate.

The committee concurred in the action of the House in recommending the full amount of the budget estimate of \$665,700,000 authorized by the Temporary Unemployment Compensation Act of 1958 signed June 4, 1958. This program is needed to provide some measure of income maintenance to the large number of unemployed workers who have exhausted their rights to benefits under the unemployment insurance laws.

If all States participate in the program, it is estimated that 2,650,000 eligible workers will file claims for benefits. It is also estimated that these individuals will draw benefits for an average of 8½ weeks.

Mr. DIRKSEN. Mr. President, this matter has been discussed in the Appropriations Committee, and also with the leadership. Actually, this joint resolution is emergent in character and requires very expeditious action.

Mr. HAYDEN. That is why I am asking for the passage of the joint resolution at this time.

The PRESIDING OFFICER. The clerk will state the committee amendments.

The LEGISLATIVE CLERK. The first amendment of the Committee on Appropriations was, on page 1, line 4, after the words "for the", to strike out "Department of Labor for carrying into effect the provisions of the Temporary Unemployment Compensation Act of 1958" and insert in lieu thereof "fiscal year ending June 30, 1958."

The amendment was agreed to.

The next amendment was at the top of page 2, to insert:

CHAPTER I

SMALL BUSINESS ADMINISTRATION

REVOLVING FUND

For additional capital for the revolving fund authorized by the Small Business Act

of 1953, as amended, to be available without fiscal year limitation, \$20 million.

The amendment was agreed to.

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the joint resolution.

The amendments were ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution was read the third time.

Mr. HOLLAND. Mr. President, in my judgment both of these items are not only emergency matters, but they are of such importance that I hope they will be enacted without effort at further amendment, so the joint resolution can go speedily back to the House. The funds are very badly needed by the Small Business Administration now, and will be of great importance in bolstering small business in many critical situations throughout the country.

The major part of the measure relates to the Temporary Unemployment Compensation Act of 1958, which was passed a few days ago, and the pending appropriation is necessary if that act is to mean anything.

I certainly commend the distinguished chairman of the committee for bringing up the joint resolution for early disposition by the Senate, and I hope the Senate will pass it without any further change whatsoever.

The PRESIDING OFFICER. The question is, Shall the joint resolution pass?

The joint resolution was passed.

The title was amended so as to read: "Joint resolution making additional supplemental appropriations for the fiscal year 1958, and for other purposes."

ORDER FOR ADJOURNMENT UNTIL TOMORROW AT 10 A. M.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that when the Senate concludes its deliberations today, it stand in adjournment until tomorrow, at 10 o'clock a. m.

The PRESIDING OFFICER (Mr. PAYNE in the chair). Without objection, it is so ordered.

AUTHORITY FOR SPECIAL COMMITTEE ON SPACE AND ASTRONAUTICS TO FILE REPORT DURING ADJOURNMENT OF THE SENATE

Mr. JOHNSON of Texas. Mr. President, as chairman of the Committee on Space and Astronautics, I ask unanimous consent to file a report during the adjournment of the Senate following the session today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON of Texas. Mr. President, I announce that the committee, by unanimous vote of all the members present, has ordered reported to the Senate a space bill.

I further announce that we shall try to find a convenient time in the next

few days for the Senate to consider the bill, so it may go to a conference with the House of Representatives.

TRANSPORTATION ACT OF 1958

The Senate resumed the consideration of the bill (S. 3778) to amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes.

Mr. SMATHERS. Mr. President, I have been asked to yield by the able junior Senator from Ohio [Mr. LAUSCHE] who is a member of the subcommittee.

Mr. WILLIAMS. Mr. President, will the Senator yield to me, before he yields to the Senator from Ohio, so that I may ask a couple of questions of the chairman of the subcommittee?

Mr. SMATHERS. I yield to the Senator from Delaware.

Mr. WILLIAMS. It is my understanding that in the bill there is provided the same exemption for poultry and poultry products which is carried in the existing law. Is my understanding correct?

Mr. SMATHERS. The Senator is correct.

Mr. WILLIAMS. A question has also been raised about the fact that many poultry products are now being shipped in a cooked form from the plants. This form of shipment may be expanded over the next few years. Would the product be covered in such a cooked form, in the same manner as in the other form?

Mr. SMATHERS. This matter was discussed in the subcommittee and in the full committee. It was impossible to list as a part of the proposed legislation all the specific items which are being sought to be exempted, but we discussed the particular item of cooked chicken. It appears that cooked chicken will in a short time become the standard type of chicken to be transported. It was the view of the members of the subcommittee that that particular product should be exempt.

Mr. WILLIAMS. Was it the understanding that the cooked product would be exempt without the necessity for any additional amendments being offered to the bill?

Mr. SMATHERS. That was our conclusion.

Mr. WILLIAMS. That was my understanding, but I merely wanted to have it clear in the RECORD because many persons engaged in the industry were somewhat concerned about this question. I wanted to be sure we were correct in believing the exemption was included.

Mr. SMATHERS. The Senator is correct in his understanding.

Mr. WILLIAMS. I thank the Senator from Florida. There is another question which has been raised with respect to amending the Revenue Code.

Mr. SMATHERS. If the Senator does not mind, I hope we can wait a moment for a discussion of that item.

Mr. YOUNG. Mr. President, will the Senator yield so that I may ask a question or two along the line of the questions of the Senator from Delaware?

Mr. SMATHERS. I yield.

Mr. YOUNG. At the present time a bona fide farmer can haul his commodities to market, whether it is 100 or 200 miles or more away, and can haul back some of the things he needs on the farm.

Mr. SMATHERS. The Senator is correct.

Mr. YOUNG. Has that provision of law been changed?

Mr. SMATHERS. No. The law with respect to haul-back for farmers was established when we considered the trip-leasing bill 2 years ago, and that is still the law. This bill would make no change in that law. A farmer or anybody else can at any time carry exempt products without having to check with the Commission. That statement refers to an exempt commodity.

We have even gone so far as to permit the farmer, when returning to his home, to haul back some nonexempt items. That was a provision in the trip-leasing law and is still the law. We did not change that provision. The farmer would be as well off under the provisions of this bill as he ever was.

Mr. YOUNG. I thank the Senator.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. SMATHERS. I am happy to yield to the junior Senator from Ohio.

Mr. LAUSCHE. Mr. President, at the very beginning I want to express gratitude to my associates on the Surface Transportation Subcommittee for the courtesies extended to me while testimony was being taken with respect to the bill. I also commend the junior Senator from Florida for the able leadership he gave in the conduct of the hearings.

Mr. President, based upon the testimony which was submitted in intermittent hearings covering a period of about 4 months, I came to certain conclusions concerning the questions which were pending before the subcommittee.

First, the testimony showed that the railroad industry, from an economic standpoint, is in trouble in our country.

Second, the railroad industry, more than any other transportation industry, is circumscribed in its management by the Interstate Commerce Commission, the Congress of the United States, and labor-union requirements.

Third, the railroad industry is placed at a disadvantage in its fight for survival by the subsidies, direct and indirect, given by the United States Government to its competitors.

Fourth, without question, the railroad industry is the backbone of our transportation system.

Fifth, the railroad industry must provide and pay taxes on its own rights-of-way, terminals, and other facilities, suffering the travesty and injustice that in part the taxes which it pays are used to subsidize its competitors.

I have made the statement that my No. 1 finding is that the railroad industry from an economic standpoint is in trouble. The records of the Interstate Commerce Commission show that the rate of return on capital investment enjoyed by the regulated water carriers is 11.3 percent, by the trucking industry is

10.4 percent, and by the railroad industry is 4.16 percent.

I repeat those figures: The rate of return is 4.16 percent for the railroads, 10.4 percent for the motortruck carriers, and 11.3 percent for the water carriers.

A number of railroads in the East in particular are so close to the point of being defunct financially that their operating funds probably would not last them a week. Any adversity of a sudden nature would precipitate those railroads into receivership or other judicial or governmental control.

The second point I made is that the railroad industry more than any other transportation industry is circumscribed in its management by the Interstate Commerce Commission, the Congress, and labor-union requirements. It may astound some of my colleagues to hear me state that the railroads are not allowed to charge a low rate, even though the low rate produces a profit for them and is nondiscriminatory with respect to shippers, if the lowness of the rate has an adverse impact upon the truckers, the barge carriers, or the airlines. The railroads are not allowed, under the interpretations given by the Interstate Commerce Commission, to utilize to the fullest advantage their inherent power in delivering mass freight at a low rate.

The railroads are required to hold an umbrella over the heads of the truckers and barge lines. They are told, when they charge a rate which is low, even though it makes a profit for them, that such rate is not allowable if it will adversely affect the ability of the truckers or the barge lines to remain in business.

With regard to the operation of the railroad system, there are conditions in the operation of trains which I shall not undertake to explain. There is one condition under which a train crew working for 2 hours is paid for an 8-hour day. It is the result of a rather involved formula, but the net result is that that condition does exist.

I made the statement that Congress, by law—and frequently with justification—imposes conditions which become a burden. Those laws are tied to safety proposals, but in many instances are contemplated merely to create work.

Third, I made the statement that the railroads are placed at a disadvantage in their fight for competitive survival by the subsidies, direct and indirect, given by the United States Government to their competitors. Let us take a look at that issue.

With respect to the air carriers, since the commercial air-carrier bill was passed in 1939, down to June 30, 1958, there has been paid to them in subsidies the sum of \$819,704,000. The general public does not ordinarily understand that, but for 20 years we have paid out each year a little more than \$40 million a year, making a total of more than \$819 million.

In addition, this session of Congress, about 3 months ago, we passed what was known as the capital-gains bill and in that bill we allowed to certain airlines \$67 million, which, in my opinion, was a gift.

Since 1937, down to 1958, the Federal Government has expended \$1,640 million in the management of the Federal airway system. It is conceded that 50 percent of that service is rendered for the Navy and the Army, but the remaining 50 percent of the service is rendered for the commercial air industry. So in that instance the air carriers have been subsidized to the extent of \$800 million. At this point it might be well to say that all the communications on the railroads are financed by the railroads directly.

We now come to the subject of airport construction. Since 1946, when the Federal Airport Act was enacted, the Federal Government has expended \$386,795,000 in the building of airports. They are primarily used by the commercial air carriers.

In this session of Congress we provided an additional \$512 million for the building of airports to accommodate the commercial airlines.

The Federal Government does not recoup a single penny of those expenditures, except the sum of money which is received from the aviation gas tax revenues, which, in the year 1959, it is estimated, will be about \$62 million.

With respect to highways, the figures show that in the period from 1921 through 1955, the total public expenditures for highways and streets by all units of government amounted to \$93 billion. This grand total includes \$52 billion for capital improvements, \$29 billion for maintenance, and \$12 billion for highway administration and interest payments. Moreover, the great bulk of these expenditures have been made in comparatively recent years within this period.

As compared with the total highway expenditures of \$93 billion, user taxes paid by motor-vehicle operators on the highways in the 1921-55 period amounted to \$45 billion, or 48 percent of the expenditures. Of the remainder, the Federal Government contributed \$14 billion and \$32 billion came from general tax funds of the States and their subdivisions. In addition to these sources of funds, some highway expenditures have been financed through borrowing.

There are 800,000 trucks on the highways at present. Studies of the Bureau of Public Roads show that on the basis of ton-miles of travel, the operator of the ordinary passenger car pays three times as much for the use of the highway as does the operator of a commercial truck. The 1956 Act sought to remedy that situation by imposing a user Federal tax on the trucking industry; but the query is properly made, What was the situation prior to 1956, when there was no Federal user tax charged against the trucking industry?

I should like to say a word about the barge lines. In the development of the inland navigation system through fiscal year 1954, our Government spent \$2,096 million, divided \$1,444 million for construction and \$652 million for maintenance and operations. Since 1954 and through fiscal 1958, it is estimated that an additional \$202 million will be expended for improvements and \$176 million for maintenance and operation,

making a total of nearly \$2,500,000,000 of Federal funds spent for improving and operating the inland waterway system. This does not include any non-Federal expenditures, such as those for the New York State barge canal or local expenditures for piers, terminals, and other improvements.

In fiscal 1959 it is proposed that the Federal Government spend an estimated \$67,681,000 for improvements and \$37,612,000 for maintenance and operations.

These are the funds which have been spent in the development of the inland waterways. Those waterways are the highways of the barge lines. The Federal Government recoups no part of such expenditures made in the building of locks, the deepening of the inland streams, and construction of other facilities which are provided for the barge-line carriers.

What is the position of the railroads with respect to their importance in the transportation system of our country? All the impartial witnesses who testified expressed the opinion that the railroads were the backbone of the system. I believe that an examination of what took place in World War II will show that they multiplied their services to a degree which was simply astounding.

I do not believe it can be doubted in the least degree that our country cannot suffer the danger of losing the services which are provided by the railroads of the Nation.

I also made the statement that the railroads must provide for and pay taxes on their rights-of-way, terminals, and other facilities. They suffer the travesty and injustice that part of those taxes are used to subsidize their competitors. There can be no challenge to that statement. They pay taxes on their rights-of-way, their terminals, and other facilities. Those taxes in part are used to subsidize the airlines, the barge lines, and the truck lines.

I filed dissenting views with respect to some of the recommendations which were made by the Subcommittee on Surface Transportation. However, in substance, I am in agreement with the recommendations. I shall not attempt to discuss those instances in which I dissented. I hope the Senate will not further dilute the provisions of the bill pending before it. It would be unwise to guarantee loans up to \$700 million unless we also provided ways and means whereby the railroad industry could help lift itself out of its troubles. It would be wrong merely to dip into the Federal Treasury and give the railroads money if the prospect were that they would continue in the future operating on the dangerous economic grounds on which they have operated in the past.

I wish again to commend the Senator from Florida [Mr. SMATHERS] and to express my gratitude to the Senator from Kansas [Mr. SCHOEPPLE] for his courtesy to me. The proposed legislation is important. It is my sincere hope that the Senate will pass it substantially in the form in which it is pending before the Senate.

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment.

TENTH ANNIVERSARY OF THE INDEPENDENCE OF ISRAEL

Mr. HUMPHREY. Mr. President, on May 11, 1958, I had the honor to deliver an address at the celebration in the Chicago Stadium, Chicago, Ill., of Israel's 10th anniversary. My address was entitled "Israel—Bastion of Freedom."

I ask unanimous consent that the text of my talk be printed at this point in the Record.

There being no objection, the address was ordered to be printed in the Record, as follows:

ISRAEL—BASTION OF FREEDOM

(Address by Senator HUBERT H. HUMPHREY, Democrat, Minnesota, at Independence Festival celebrating Israel's 10th anniversary, Chicago Stadium, Chicago, May 11, 1958)

We are gathered here to commemorate the 10th anniversary of the founding of the State of Israel. It is appropriate that we do so both by looking back over Israel's challenges and achievements during that decade, and by looking ahead to Israel's future.

The skeptics said there would never be a State of Israel. They have been proved wrong.

They said that Israel, surrounded by a sea of hostile forces, with arid land, depleted resources, and a divergent and impoverished people, could not survive. Again, they were wrong.

Even now, there are a few who say that Israel cannot survive. They, too, are wrong.

Israel has confounded the fears of the skeptics, and confirmed the faith of her friends.

Last year at this time I was in Israel. I know, first hand, the determination, the faith, and the courage that have made possible the historic achievements of the last 10 years.

Israel has had more than her share of handicaps and heartaches in these first years of independence. Yes, not one, but a hundred challenges have had to be met and mastered—and all of them at the same time.

Israel has had to establish a modern free government, create a strong defensive force, build an independent economy, and revive and renew a whole culture.

She has succeeded in doing so not by the brutal efficiency of a totalitarian machine, but through a democratic process which has respected, and promoted the rights of the individual.

HUMAN RIGHTS

For instance, today in Israel every child, Arab and Jewish, is entitled to a free education and medical care. Arabs are represented in Israel's parliament, both as members of Jewish parties, and as the representatives of Arab parties. It has always seemed wonderfully symbolic to me that the rights of the Arab minority in Israel have been safeguarded even while the state itself has been under siege from hostile neighbors.

DEFENSE

Yes, on the very day of Israel's birth as a nation, her land frontiers were under attack and her ports were blockaded.

The new state's baptism of fire was costly, but it established her right to live and she lives vigorously. The people of Israel have learned to live dangerously. They have learned to brace themselves for the difficult task of rebuilding their hard-won country, and making it a haven for refugees fleeing from other lands. Today Israel stands as the most powerful nation in the Middle East, exclusive of Turkey—a strong ally, without a formal treaty of alliance.

REFUGEES

In the past 10 years, Israel has performed the monumental task of receiving, rehabili-

tion, enabling such foreign nations to compete with American investors and American workmen through the operation of the 1934 Trade Agreements Act, all operating against the economy of this Nation, with the assistance of the World Bank, to have printed at this point in the RECORD as a part of my remarks excerpts from a dispatch which appeared in the Wall Street Journal of June 10, 1958, under the heading "World Bank Steps Up Sideline Activities as Its Loan Total Mounts."

There being no objection, the extract was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal of June 10, 1958]

WORLD BANK STEPS UP SIDELINE ACTIVITIES AS ITS LOAN TOTAL MOUNTS—IT ADVISES ITALY ON ATOM, EGYPT ON CANAL, PONDERES EASY-TERM CREDIT FUND—HOW TO SPLIT THE INDUS RIVER

(By John R. Gibson)

WASHINGTON.—The 66-nation World Bank, a major cog in the free world's foreign-aid machinery, is greatly expanding its traditional role as an international financier—and is getting into some sidelines remote from the banker's usual routine.

More properly known as the International Bank for Reconstruction and Development, this 12-year-old institution will dispense a record \$650 million in loans in the fiscal year ending June 30. That sum will represent an increase of nearly 70 percent over the outgo of the year before. The bank is financing such varying economic development ventures as an electric powerplant on the Djen Djen River in turbulent Algeria, road construction at the banana-land crossroads of El Empalme in Ecuador, and airplane purchases by the K. L. M. Royal Dutch Airline.

Seven new members—Ghana, Malaya, Morocco, the Sudan, Tunisia, Ireland, and Saudi Arabia—have joined up just since last July. Two more, Libya and Spain, may come in soon.

EASY-TERM LOANS

The bank also may sprout a new offshoot—a special fund for easy-term loans, to which such industrialized nations as the United States, Germany, Britain, and Japan would contribute. The bank's president, tall, 60-year-old, Atlanta-born Eugene Black, is the most influential partisan of the scheme. The United States State Department's top economic policymaker, Deputy Under Secretary C. Douglas Dillon, is now studying the possibility of United States participation in such a special fund.

SUBJECT MATTER THE BOOK MAINLINE EXTENSION OF THE 1934 TRADE AGREEMENT ACT EXPIRES JUNE 30, 1958

Mr. MALONE. Mr. President, the question of the extension of the 1934 Trade Agreements Act, which expires on June 30 of this year, will shortly be before the Senate, since the House passed the bill this afternoon.

That act violates the Constitution of the United States. That great document, the Constitution, established the separation of powers of a three-branch government.

It placed the regulation of foreign trade and the domestic economy, through the adjustment of duties, imposts and excises, which we have come to call tariffs, in the hands of the Legislative Branch, under article I, section

8. The Constitution lodged in the executive branch the responsibility of fixing foreign policy, under article II, section 2, of the Constitution.

The Trade Agreements Act of 1934, which has been extended 10 times since the first emergency period of 3 years, tied those 2 functions together, amending the Constitution without referring the question to the people as provided in that document.

This 11th extension, just voted by the House provides for another 5 years and an additional 25-percent reduction in the duties and tariffs. George Washington in his Farewell Address had this to say relative to the evasion or usurpation of the Constitution.

If in the opinion of the people, the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed.

Abraham Lincoln said:

If this Nation is ever destroyed, it will not be from without, it will be from within.

In this case the legislative branch transferred the constitutional responsibility of the Congress to regulate foreign trade and the national economy, through the adjustment of what are referred to as tariffs, to the Executive.

Mr. President, it would be just as reasonable, if the legislative branch today passed a bill transferring the constitutional responsibility of the Executive to fix the foreign policy, under article II, section 2, to the legislative branch.

SUBMIT A PROPOSED CONSTITUTIONAL AMENDMENT

Mr. President, I submit that the proper way to approach this question, if there are any Members in the Congress who believe the President should exercise both powers, who believe quoting George Washington that "the distribution or modification of the constitutional powers be in any particular wrong" is to submit a constitutional amendment to the people of the country and abide by their judgment.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House had disagreed to the amendment of the Senate to the bill (H. R. 11451) to authorize the construction and sale by the Federal Maritime Board of a superliner passenger vessel equivalent to the steamship *United States*, and a superliner passenger vessel for operation in the Pacific Ocean, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. BONNER, Mr. BOYKIN, Mr. GARMATZ, Mr. TOLLEFSON, and Mr. ALLEN of California were appointed managers on the part of the House at the conference.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

H. R. 7261. An act to amend the Federal Probation Act to make it applicable to the United States District Court for the District of Columbia; and

H. R. 7953. An act to facilitate and simplify the work of the Forest Service, and for other purposes.

TRANSPORTATION ACT OF 1958

The Senate resumed the consideration of the bill (S. 3778) to amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes.

Mr. DIRKSEN. Mr. President, I commend the distinguished Senator from Florida [Mr. SMATHERS] and the other members of the subcommittee and the full Committee on Interstate and Foreign Commerce for the diligence which they brought to bear on the troublesome problem of strengthening the transportation system. It is difficult enough to initiate and undertake a matter of this kind; but to carry it through to fruition is quite another matter.

I can readily understand, from my own experience as a member of the Committee on the Judiciary and the Committee on Appropriations, how much time and energy have been devoted to fashioning a measure which is reasonably acceptable in all quarters, and which now has an opportunity to receive approval by the Senate and, hopefully, by the other body in the legislative branch.

When the committee was meeting in the caucus room, on occasions I would wander in and sit with the crowd and listen to the testimony. Of course, it was of high interest to me, since the city of Chicago is probably the greatest railroad hub in the entire Nation.

The committee was confronted with two absolute values. The first was that the railroads are an industry which is a part of our surface transportation system. The other was that change is one of the eternal things which somehow we have failed to recognize fully.

Over the years, since I have been in the legislative branch, I think we have agreed that there are changes in our whole transportation setup and in community and national attitudes but we have done very little about them until one branch or another of the transportation system found itself in such a position that it fairly came to the door of Congress as a suppliant for some kind of relief.

Now the two absolute values of an indispensable transportation medium are in difficulty, and the system is confronted with problems which are the result of inevitable change. If the railroads are to continue to operate effectively, we can do either one thing or a combination of things.

First, we can create for them an atmosphere which is healthy, one in which

they can do business and can stand on their own.

Second, we can subsidize them.

In that connection let me say that on yesterday when the Department of Commerce appropriation bill was before the Senate, I noted that the bill contained an item of \$120 million for operating differential subsidies which represent the difference between the operating cost of our own maritime industry and the operating cost of the maritime industries of other countries. The purpose is to prevent American shipping from disappearing from the high seas.

So far as I know, and as indicated by those in the transportation industry with whom I have talked, the railroads do not want a subsidy. Moreover, the last thing they would like to see would be socialized railroads. I believe that would be an absolute tragedy. In that event, all the remaining railroads would be placed on the Federal Government's payroll, so to speak. Of course, we know what happened in the days when the railroads were under Government direction. So that is the last thing to which we want to resort; and I think subsidy would be equally bad.

I believe the need for relief is clear. Those who have prestige in the industry request relief only in the hope that something more affirmative and constructive, in the form of a modification of the ratemaking rule, can be worked out, so they can finally create a climate which will permit of the development of the revenues which are indispensable to a healthy railroad industry.

The pending bill is a reasonably felicitous combination of the essential things—a guarantee of loans, a construction reserve, and a ratemaking provision. Of course, the last one is always very troublesome. I have already discussed it with my very esteemed and able friend, the Senator from Ohio [Mr. BRICKER], whose advice in this field I have always prized.

The bill also provides that the Interstate Commerce Commission shall have authority more expeditiously to dispose of the cases presented to it from time to time. After all, the problem confronting us today is a little more than merely a local one. I believe it is one that is inherent in many governmental agencies. We even find it in connection with the Federal court system. A Federal district judge whom I know quite well found that it would take 7 years to dispose of all the cases then pending before his court.

So it seems to me that sooner or later the Congress must come to grips with that problem, and must see what it can do, by means of personnel implementation and other matters, and probably by means of modifications of substantive law, to have the Government agencies handle more expeditiously the cases which come before them.

A short time ago it was announced that the House had passed the reciprocal-trade-agreements-program bill. I believe one of the difficulties in that connection is that an applicant for relief under the escape-clause provisions may make such an application, but even 2 years may pass before the making of

a finding in the case, and it is conceivable that by that time, the applicant may have had to go out of business.

If the fault lies in lack of adequate personnel or lack of sufficient funds, that is a responsibility of Congress, and we should face up to it.

A similar situation confronts us in this case. So expeditious action should be taken by the Interstate Commerce Commission when it deals with these problems, for, as the committee has indicated in its report, there is always the possibility that some of the carriers might go into bankruptcy; and that would be anything but wholesome insofar as the transportation system is concerned.

I do not see on the floor at this time my distinguished colleague, the junior Senator from Ohio [Mr. LAUSCHEL]; but I read with interest his separate opinions in connection with the committee report. Among other things, he referred to greater freedom in the transportation area. I concur entirely in that sentiment.

So I expect to support the bill. It may contain some defects. If so, I am sure that either in the other body or by means of the conference or after the bill goes into effect, they can be ascertained and corrected.

The bill, when enacted, should be a very distinct contribution to the effectuation of the purpose indicated by its title, namely, the strengthening and improvement of the transportation system of the country.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. PAYNE in the chair). The question is on agreeing to the first committee amendment.

Mr. BRICKER. Mr. President, I wish to speak briefly on the bill as reported by the committee.

I desire to join the distinguished leader on this side in commendation of the chairman of the subcommittee, the chairman of the full committee, and the other members of the subcommittee, on both sides, for working out the bill.

Mr. President, the problem confronting us today is not at all a new one. It was some 6 or 7 years ago that the Interstate and Foreign Commerce Committee appointed a subcommittee to hold hearings on surface transportation. Extensive hearings were held. The conclusions reached—not unanimously, to be sure—as a result the hearings were practically the same as the ones which have been reached by the membership of this committee.

The problem has been a growing one in recent years. The control of railroad transportation dates back to the 1870's. The first regulatory body created by the Federal Government had jurisdiction over railroads, railroad rates, and railroad transportation. That jurisdiction has expanded to the present time, until today the railroads charge rates which are fixed by the Federal Government, pay wages which are fixed by the Federal Government, and operate their transportation system and carry practically all of their business under the very strict supervision of the Federal Government.

In addition, there is supervision at the local level, by the State authorities.

Since the original jurisdiction, which was established at a time when the railroads had practically a monopoly of the transportation business and imposed their power discriminately as among shippers and consumers, many other modes of transportation have evolved. At the present time the transportation business is highly competitive, as between the railroads, trucks, buses, airlines, water shippers, and pipelines. The result has been that the conditions which existed at the time of the original act no longer exist.

As a result of their strict supervision, the railroads have been limited in their opportunities to meet competitive conditions. Some of their competitors have been subsidized by the Government; some of them have been less strictly regulated than the railroads have been; and some of them have been entirely free of governmental regulation of any kind or character.

As a result, the railroads have been very rapidly losing their share or ratio of the shipping business. Much of the business the railroads formerly transported has gone to other modes of transportation.

The Transportation Act of 1920 was an expression by the Congress of its intent to have the facilities of each mode of transportation strengthened and preserved in the interest of the shipping public. That act has been interpreted by the Interstate Commerce Commission, in words, at least, in such ways as to carry out that intent; but the various applications have brought about further restrictions, which have been very burdensome on the railroads.

As a result of the hearings, the subcommittee extensively entered into the preparation of a bill. It was highly controversial. There were many sections that had to be threshed over time and again, and then submitted to the full committee.

The bill comes from the full committee with practically unanimous support, recognizing, first of all, that something must be done for the transportation industry of the country so as to carry out the intents and purposes expressed explicitly in the Transportation Act of 1920.

The worst thing that could happen to this country would be that the transportation system would be finally Government owned and operated. Yet that will be inevitable if the present trend continues many years in the future. One of the quickest ways of socializing the economy is to have the Government move into the transportation field. Let it be remembered that the Government cannot own and operate the railroads unless it also undertakes the operation of buses and trucks, and then water transportation and the other varied means of transporting people and property, because once the Government moves into one field of transportation, it cannot stand competition from private enterprise in other competing forms of transportation. So all forms of transportation will ultimately face Government operation and ownership, unless

something is done about the problem with which we are confronted.

The bill was an attempt on the part of the committee to free the railroads from strict regulations which have reduced their earnings as a result of unfair competition that has depressed their share of the transportation business, and to help relieve the railroads from some of the situations which have been brought about by Government subsidies and Government aid to competing forms of transportation.

Many facets of this bill could be discussed at length. In the first place, we are dealing with rates to be fixed for the railroads. There was no effort made to do away with sections of the law in regard to discrimination as among shippers and unfair practices which brought about the interstate commerce law in the first place. There was only an effort to give the railroads a little better competitive position in regard to other modes of transportation.

The bill, in effect, states that insofar as rates are concerned, when competing with another mode of transportation, the railroads shall not be restricted by the Interstate Commerce Commission because of the effect of the rates upon a competing mode of transportation. The bill has no effect upon the discrimination prohibitions of the law. It has no effect upon carrying out the purposes of the Transportation Act as originally enacted.

There is another section which I think has much to commend it. Already the Interstate Commerce Commission has jurisdiction over intrastate rates if they are discriminatory and place an undue burden upon interstate commerce, but that is by appeal. We attempt to give to the ICC original jurisdiction to determine intrastate rates at the same time it considers the application of the rails for interstate rates.

Mr. SALTONSTALL. Mr. President, will the Senator yield for a question, or does he prefer to continue his remarks uninterrupted?

Mr. BRICKER. I yield for a question.

Mr. SALTONSTALL. I should like to point out that the commuting railroads in Massachusetts are in difficulty. The New York Central has given up one commuting line entirely. The New York, New Haven & Hartford is having difficulty. There is some reason to believe that it may try to give up another of the commuting lines completely. That would very materially handicap commuters to the city of Boston.

I am in favor of the committee bill. I think the committee has done a good job. I believe the railroads will be helped by the bill. But what is going to be the effect on commuting rates if State jurisdiction is completely taken away and given to the ICC?

Mr. BRICKER. Of course, if the ICC is given jurisdiction, there is no reason to believe it will not treat fairly the situation with regard to commuter rates. If that were not so and if commuter rates were maintained at less than compensatory rates the burden of the transportation of people of local communities would be placed upon the shippers of

freight, because most of the railroad transportation of persons is carried at a loss.

The commuter problem is one of the most serious the railroads face at the present time. The carrying on of commuter service results in a heavy loss to the railroads. We have asked that a special committee be formed to study the problem of railroad transportation, and that includes local commuter service. Commuter rates ought to be compensatory, but if they are not compensatory, and if they cannot be raised to compensate the railroads, then there is involved a problem of a local nature, and a problem of the desirability of a subsidy to carry on a service which is necessary for a local community. The rate might be fixed at one level in one community, and at another level in another community; but it is a problem that cannot be solved in a general rate bill or in the bill now before the Senate.

I know the serious problem that confronts Boston, New York, Philadelphia, and possibly other cities such as Chicago. Certainly no one can ask the railroads to carry that burden endlessly, at a tremendously heavy loss, and ask the shippers of freight to make up the loss.

Mr. SALTONSTALL. I agree with the Senator. At the same time, I would dislike to see the local railroads, or any railroads, become subject to complete public ownership. In Boston the elevated and trolley car system today is completely publicly owned. The system is operated at a considerable loss. The great question is how to get commuters into and out of the city of Boston if the present railroad transportation service is abandoned.

Mr. BRICKER. Of course, when there is municipal ownership of a commuter service, or of a line furnishing such service, the taxpayers are asked to subsidize the cost of the service, unless the rates are compensatory. In the case of the railroads, shippers of freight throughout the country are being asked to subsidize the commuter service, rather than have those who get the service pay for it. Ultimately, that problem must be solved. It is not a factor in this bill. It was not important in arriving at the jurisdictional question as between the Interstate Commerce Commission and the State governments.

Mr. SALTONSTALL. So provision is made for a commission or some sort of a study group that will make an effort to resolve this problem by another act of Congress?

Mr. BRICKER. That is correct.

Mr. SALTONSTALL. The bill now before the Senate, if enacted, would constitute a broad act designed to assist the railroads throughout the country, and to relieve them of certain restrictions which are now placed on them by Federal law, and would provide for a study group to see what can be done in special cases where railroads are being operated at a loss. Is that correct?

Mr. BRICKER. The Senator is correct. There are many other subjects on which we do not have complete information so that we can come to a legislative conclusion at the present time. The

Senator from Massachusetts and I were at a hearing of the Committee on Space and Astronautics. I was not able to go to the Committee on Rules and Administration with the chairman of the subcommittee. Did the Committee on Rules and Administration authorize the appropriation?

Mr. SMATHERS. I understand the Committee on Rules and Administration did authorize the appropriation to provide for a committee to study the basic problems of total regulation of transportation, the adequacy of user charges, the problems of commuter service, and what should be done about things of that type. The answer to the Senator's question is "Yes."

Mr. BRICKER. I thank the Senator from Florida.

Mr. SALTONSTALL. I thank the Senator from Ohio.

Mr. JAVITS. Mr. President, will the Senator from Ohio yield?

Mr. BRICKER. I yield to the Senator from New York.

Mr. JAVITS. My senior colleague from New York [Mr. Ives] and I have a common interest with the Senator from Massachusetts. Based upon communication with the Public Service Commission of my State, we are very deeply disquieted by the provision now appearing in section 4 of the bill which, in giving authority to the Interstate Commerce Commission to act in commuter line matters, gives, in my opinion, a power to the Commission so circumscribed as to require the Commission to permit discontinuance of practically any commuter line as to which there is an application for discontinuance.

I shall ask the Senator a specific question on that subject. If my belief is correct, the language will put the regulatory body into a position of lacking flexibility to deal with a situation about which one cannot be precipitate. Whether we are considering New York or Boston, we can make an improvement in the situation which exists, and we can make progress, but certainly we cannot suddenly shut down the service.

My colleague from Ohio is an excellent lawyer, and I am glad, because we are discussing a question of legislative language. The language to which I should like to direct my question is shown on page 6, line 16.

I should like to read beginning with line 11, to cover the whole sentence and convey the full meaning.

If, after hearing in such investigation, whether concluded before or after such discontinuance or change has become effective, the Commission finds that the operation or service of such train, ferry, station, depot or other facility is required by public convenience and necessity and that such operation or service will not result in a net loss therefrom to the carrier or carriers and will not otherwise unduly burden interstate or foreign commerce, the Commission may by order require the continuance or restoration of operation—

And so forth. What troubles me is this question: Is the Commission absolutely bound to allow discontinuance of service the minute there is a showing of net loss upon a particular operation? I might say to my colleague that if that be so,

then practically all passenger service in the congested northeastern area of the United States, certainly, could be shut down under the provision, because almost all such service is operated at a net loss.

Mr. BRICKER. That is one of the criteria of the Commission in coming to a judgment as to whether the operation shall or shall not continue. I do not know how far down one would go in the line of authority as to what is or is not a loss, or what segment of the operation would be considered in determining whether there is a loss. This is the same rule which applies at the present time to State commissions. If State commissions are compelling a railroad to operate at a loss, with a minor qualification by a recent Supreme Court decision, they are simply violating their responsibility, that is all. To compel a railroad to continue a passenger service at a loss is simply saying to the shippers of the Nation, "By additional freight charges you have to pay the cost of the losing service. You have to make up that loss." The shippers have been doing that. I will be frank with the Senator from New York. The shippers have been doing that for a long, long time.

The operating loss from passenger services last year amounted to hundreds of millions of dollars. If the railroads are to live, that revenue loss has to be made up from freight charges. I do not think the Senator from New York would ask that it be done that way. I think that would be an unfair advantage to take of the earning income of the railroads, buses, or any other form of transportation which carries passengers in the city of New York.

Mr. JAVITS. Mr. President, will the Senator yield further?

Mr. BRICKER. I yield.

Mr. JAVITS. What troubles me is that this statement of the bill is not a criterion, but is the criterion.

Mr. BRICKER. It is one of several.

Mr. JAVITS. I beg the Senator's pardon, but I disagree. If we pass the bill as it is written, this is the criterion. I believe the bill must be amended, because I think we cannot tie this matter down so tight. The provision reads:

Such operation or service will not result in a net loss therefrom to the carrier or carriers and will not otherwise unduly burden interstate or foreign commerce.

An essential criterion is net loss. If we are to pass the bill and have it become a statute, we should make that provision a criterion and not the criterion. If we do that we will be making great progress in giving ICC a power it does not now have. I am for doing that, notwithstanding the views of my own Public Service Commission, but I am concerned about absolutely trying the power to act down to only net loss.

In answer to a previous point, about paying for this kind of service, I suggest that a railroad is a public utility. There is always involved a question of economic philosophy as to whether a public utility has to operate at a profit over all or at a profit for each particular

segment of its operations. There is a question whether that is the very reason the railroad is a public utility—because some of the things it does and may have to do at a loss it does to give public service.

I say to my colleague that in view of the very narrow restriction contained in the language, which will put every railroad in a position to discontinue any passenger services it wishes, without any recourse, I would very much favor making this provision a criterion, but not the sole or essential criterion, as I feel the language in the bill would make it.

Mr. BRICKER. As I have said, the decision is not limited to a section or a segment of a railroad. I do not think the interpretation placed upon the language by the Senator from New York is a proper one. I think more leeway is given. I do not consider this language to be the sole criterion, any more than it has been for the State commissions. We are talking about practically the same authority the State commissions have had heretofore, yet those commissions have required certain segments of the industry to operate as a part of the whole.

I would not say a railroad could continue a net loss forever as a subsidy to the city of New York, or Boston, or Philadelphia, or Cleveland, or any other city. As I said to the Senator from Massachusetts a moment ago, ultimately the problem of commuter service must be worked out in some way so that there will not be the terrific loss there is today. In many cities such transportation service has been taken over by the municipal governments. The losses then are absorbed by the general taxpayers. At present the losses have to be absorbed by the other operating income of the railroads.

Mr. JAVITS. Will my colleague yield further?

Mr. BRICKER. I yield.

Mr. JAVITS. I thank my colleague for yielding. If this language should be construed as being the criterion rather than a criterion, so that any section of the road which showed a net loss could be shut down ipso facto, and the Interstate Commerce Commission would have to go along with the action, would my colleague say that should not be done in this bill?

Mr. BRICKER. I do not think it is done, in the first place. In the second place, I do not think we can force the operation of a service at a continuing loss. I do not think it ought to be done by Government or any other authority. I think such charges ought to be made as to compensate for the particular service rendered.

We can segregate this service. It is not an indivisible part of the overall. It is a limited service, and it is one as to which the income can be determined and one as to which the expenses can be determined very well. As a result, the rates could be well determined so as to make the rates compensatory.

I do not think any carrier ought to be compelled to carry freight or passengers at a noncompensatory rate. Attainment

of that goal has been prevented at times because of the competition such a course might bring about, but certainly the result is the placing of a heavier burden upon a segment of the traveling or using public.

Mr. JAVITS. If that is the basis on which the bill is written it must be opposed by Senators who come from large cities, as I do, because we cannot tie around the necks of our people this kind of noose whereby at one fell swoop service may be discontinued. I shall offer an amendment to make it clear this language may be a criterion, but not the sole criterion.

I thank the Senator.

Mr. THYE. Mr. President, will the Senator yield?

Mr. BRICKER. I yield.

Mr. THYE. We must provide for the commuter trains entering and leaving the larger cities, because the congestion which automobile transportation would involve in the cities would be prohibitive, would it not?

Mr. BRICKER. They would be pretty crowded. Many cities are already pretty crowded.

Mr. THYE. That is true.

In Washington, but more especially in New York or Chicago, if the commuter trains were eliminated, and all those commuting to the city were to travel by automobile or bus, the highway system would be almost impassable for many hours, both morning and evening.

Mr. BRICKER. That is not going to happen, I assure the Senator from Minnesota, but the problem is essentially and primarily a local one. It is not a problem which we ought to deal with in connection with the pending bill. It is not a problem which will be thrust upon the cities all at once. The Interstate Commerce Commission will be as considerate as are the State utility commissions. If we put the problem on any other basis, we must put it on the basis of asking the State utilities commission for something we ought not to have.

Mr. THYE. The committee has done an excellent job. It recognizes the problems of the railroads, and it recognizes the difficulties in which the commuter trains have involved the railroads. If a loss were incurred in such an operation, it would have to be spread out among the users of the general transportation system, and in many cases upon those in the Middle West. Many railroad users in the Middle West were placed under a competitive situation which they could not meet, because freight rates were increased, and the higher rates had to be paid by the users of the railroads, whether farmers or manufacturers, and thereby they forced themselves, competitively, out of business.

I wish to commend the committee. Judging from a reading of the report, I think it has done an outstanding job of developing the facts and trying to solve the problems of the railroads in the pending legislation.

The 3 percent freight excise tax and the 10 percent excise tax on passenger transportation are handicapping those who must use the railroads. I commend the members of the committee for hav-

ing done an outstanding job. I believe that the enactment of the proposed legislation would greatly assist in relieving the situation.

I believe the pending bill should be enacted. Our railroad system is exceedingly important. We must have it. If we do not correct the situation by legislative action, and if more railroads go out of existence, the Nation will suffer in the future.

I thank the Senator for yielding.

Mr. BRICKER. I thank the Senator for his contribution. He is exactly correct in the conclusion he reaches, that if one segment of the transportation industry is conducted at too great a loss, the shipping public in the Middle West and in other parts of the country must make up its portion of the loss.

Mr. THYE. We in the extreme Middle West, in Minnesota, the Dakotas, and Wisconsin, pay the bill.

Mr. BRICKER. We in Ohio pay our share, too.

Let me say further, in regard to the excise taxes, that I believe all members of the committee took the position that they should be repealed. They were placed in effect during the period of the war, in order to keep people from traveling, so that facilities would be available for the Defense Department. As proof of the need for such a measure, 97 percent of the personnel of the Second World War were carried on trains, and 90 percent of the materiel was carried on trains.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. BRICKER. I yield.

Mr. YOUNG. First, I wish to commend the committee for tackling a very tough problem and coming up with what I think is a pretty good answer. Although I am not fully conversant with all the provisions of the bill, I intend to vote for it when they are clarified to my satisfaction.

In my own State the railroads have lost much of their business, and the only alternative they have left is to seek higher rates on the commodities left for them to haul.

In my State that happens to be mostly grain. Freight rates on grain have gone up considerably, to the extent that it is now all but impossible to get grain produced in North Dakota to the eastern seaboard by rail.

I was wondering to what extent the provisions of the bill would impinge upon the power and authority of the State Public Service Commission in fixing rates in the State.

Mr. BRICKER. There would be no more interference than there is at the present time. The railroads may make application initially to the State commission, if they wish. The States now have jurisdiction over intrastate rates, but the decisions of State commissions are appealable to the Interstate Commerce Commission if the rates fixed are a burden upon or discriminatory against the interstate transportation system.

Mr. YOUNG. In my State we have a sizable lignite coal industry. Most of the coal is consumed within the State, and not much of it is shipped outside the

borders of the State. Is it true that under the provisions of the bill the State commission would no longer have authority?

Mr. BRICKER. It would have initial authority. There is no question about that. And it would have permanent authority unless the rate were a discrimination against interstate commerce. That is the authority which exists in the Interstate Commerce Commission at the present time, on appeal from the findings of the State commission.

Mr. YOUNG. Suppose the Interstate Commerce Commission were to raise the rate on lignite coal in my State. What recourse would we have?

Mr. BRICKER. An intrastate rate.

Mr. YOUNG. Thank you.

Mr. BRICKER. If it were not discriminatory and unduly burdensome upon interstate commerce, the State commission would still have authority.

Only one slight change is made, and that is that the application may contain a request that the intrastate be determined at the same time the interstate rate is determined. However, the rates are determined on the same basis.

Mr. YOUNG. Will the Senator explain briefly how the bill would change the authority of the State commission?

Mr. BRICKER. It would only give the carrier the right to appeal to the Interstate Commerce Commission initially, when the determination of an intrastate rate is a part of an interstate rate application. Now the carrier must go to the State commission secondarily, and if the State commission does not go along, the carrier must appeal under section 13, which is a long and burdensome procedure. The State still has jurisdiction over intrastate commerce, under the law, as is the case at present. The difference is a difference in procedure more than anything else.

Mr. BARRETT. Mr. President, will the Senator yield?

Mr. BRICKER. I yield.

Mr. BARRETT. Is it proposed to give any new powers to the Interstate Commerce Commission with reference to discontinuance of service?

Mr. BRICKER. An appellate power would be given to the Interstate Commerce Commission, on the application of a railroad to abandon service. At the present time, if a railroad proposes to abandon all facilities, the Interstate Commerce Commission has jurisdiction. However, under this provision, if the railroad proposed to take off a train, and the State commission should say, "No; you cannot do it," the carrier would have the right, under the provisions of the bill, to appeal to the Interstate Commerce Commission for the right to abandon the train, facility, station, or whatever it might be.

Mr. BARRETT. This bill gives the railroad and the Interstate Commerce Commission new authority with reference to discontinuance of service and also abandonment of facilities as I take it. Of course the carrier will not attempt to discontinue service if the rates can be increased so as to be compensatory for the service.

Mr. BRICKER. There are some rail lines which would not pay, regardless of rates. There is one State in the Union—I will not mention its name—which charges the railroads more in taxes than the entire income of the railroads on shipments in that State. So it would be pretty difficult to get a compensatory rate in that case, to offset the tax charge. The basis for abandonment is loss, or service no longer used.

I remember that when I was a member of the State commission there was a protest against the abandonment of a train running into a small college town in Ohio. Forty or fifty witnesses came to the hearing. None of them came by train. They all came by automobile. None of them had been on a train for many years, and none of them had been on that particular train for the previous 10 or 15 years.

Initially the Senator was asking about the abandonment of services and facilities. In that respect the bill does give additional jurisdiction, on appeal, to the Interstate Commerce Commission—the same jurisdiction it now has with respect to rates.

Mr. BARRETT. That is my understanding of the bill.

Mr. BRICKER. Under section 13 of the Interstate Commerce Act, the Interstate Commerce Commission has jurisdiction, on appeal, over rates fixed intrastate. We would now give it equal jurisdiction of questions involving the abandonment of facilities.

Mr. BARRETT. The effect of that provision, however, even in interstate lines is to give the Interstate Commerce Commission the ultimate decision in the matter of abandonment of service in all cases. Is that correct?

Mr. BRICKER. That is correct.

Mr. BARRETT. In my State I am more concerned about the transportation of freight since passenger transportation by rail has been largely discontinued except along the Union Pacific line.

Mr. BRICKER. That is true in many sections of the country. It is primarily due to the private automobile.

Mr. BARRETT. That is correct. I should like to ask the Senator about the provision in the bill which deals with guaranteed loans. I note that a little less than 20 percent of the money authorized for guaranteed loans can be used for operating expenses.

Mr. BRICKER. In the case of existing obligations; that is correct. It is \$150 million out of \$700 million, to be exact.

Mr. BARRETT. Did the committee hear any testimony to the effect that the railroads need any loans for operating purposes at this time?

Mr. BRICKER. There was some, but I do not believe that there would be an extensive use of that provision. Furthermore, it would be within the jurisdiction of the Commission to determine it. The Commission would have to recommend and guarantee the loan. I doubt very much that there would be a great deal of it used. However, it seemed to be a sort of backup protection for

some roads which might get into a difficult situation, cashwise, and which had hopes of pulling out. Of course unless the Interstate Commerce Commission feels a road has such hopes and prospects, a loan cannot be made.

Mr. PURTELL. Mr. President, we have reason to believe that some railroads might shortly be forced into bankruptcy unless some financial aid were provided them for operating purposes.

Mr. BRICKER. The other provision also, it is hoped, will loosen up an opportunity for the railroads to increase their shipments, so that they will be able to pay back the loan.

Mr. PURTELL. That is the hope.

Mr. BRICKER. Yes; that is the hope. If it does not do that, there is not much use in passing the bill.

Mr. BARRETT. I believe it is a good bill. It is absolutely essential that we keep the railroads in operation. I do not see how we can protect the security of the country unless we do so. I did not think that we had come to the point where it was necessary for the railroads to borrow money for operating purposes, but, as the Senator from Connecticut has pointed out, it might be necessary in some isolated cases to do so and I shall not interpose any objection to that provision.

I wish to commend the subcommittee for its fine work on this bill, and the Senator from Ohio for his splendid presentation today. I shall vote for the measure.

With reference to the establishment of a construction reserve fund for a period of 5 years with the provision that the money shall be used for construction or acquisition of equipment and other property used in the transportation business.

Mr. BRICKER. The Senator has reference to capital construction.

Mr. BARRETT. Yes. What, in effect, is the overall limitation on the use of the construction reserve fund?

Mr. BRICKER. It must be used within 5 years and only for the purpose designated, under the rules of the Interstate Commerce Commission for fixing depreciation. At the present time the deferred maintenance of railroads is very high. It runs into hundreds of millions of dollars throughout the country. That means that the railroads are not laying rails. It means that they are not putting down any ties. It means that they are not keeping their rolling stock in the condition it ought to be to take care of the service properly. Therefore, the maintenance reserve will be set aside by the railroads, and must be used within 5 years' time for the purposes for which it was set aside, or it goes back into their income and is taxable, of course.

Mr. BARRETT. It seems to me the provision with reference to the guaranty loans and the provision for the construction reserve fund ought to be tied together, so that the carrier could accelerate its improvement program and anticipate the accretions to the construction reserve fund over the 5-year period and borrow the money under the guaranty loan provision and spend the money in the next year or so.

In other words, what I have in mind is that we should take steps which would provide employment for people, by having the railroads do the work this year or next year, rather than stretching it out over a 5-year period.

Mr. BRICKER. I believe the railroads will do that. They would have done it already if they had been able to do so. However, their income has been so depressed that they have not had the money with which to keep up their maintenance. I assure the Senator that the testimony sustains us in the view that any money the railroads are able to get for this purpose will be utilized as early as possible, because the railroad properties are depreciating.

Mr. BARRETT. Yes; I realize that, and perhaps they would take such action on their own motion. However, it seems to me that we should make it possible for them to do the work as quickly as possible and provide employment during this period when so many men are out of work.

Mr. BRICKER. Of course, they would have to get the money before they could use it. They would have to get it out of earnings, and it could be done only on the basis of depreciation as fixed by the rules of the Interstate Commerce Commission.

Mr. BARRETT. Could they not get it under the guaranteed-loan provision?

Mr. BRICKER. Oh, yes; they could use the loan money for that purpose. That is primarily the purpose of the loan money provision. The money has to be used for capital expenditures.

Mr. BARRETT. In other words, if a given railroad were permitted to borrow \$50 million under the guaranteed-loan provision, it could make much-needed improvements.

Mr. BRICKER. Rebuild its rails; yes.

Mr. BARRETT. Rebuild its rails and charge off the cost over a period of 5 years under the construction reserve section.

Mr. BRICKER. No. I read from the bill:

Such construction-reserve fund shall be established, maintained, expended, and used in accordance with the provisions of this section and rules or regulations to be prescribed by the Interstate Commerce Commission and the Secretary of the Treasury and under the joint control of the carrier and the Commission. * * * All earnings of the fund shall be deposited in the fund. Such earnings may be withdrawn by the carrier only for expenditures for the purposes established in paragraph (1).

That has reference to this language:

It is hereby declared to be the general policy of the Congress to promote and encourage, in the interest of national defense and public welfare, the construction, reconstruction, reconditioning, or acquisition of equipment and other property used in the transportation business by common carriers subject to the Interstate Commerce Act (in whole or in part) of debt incurred, after the effective date of this section, for such purposes. It is the purpose of this section to provide implementation of this general policy through the establishment by any such carrier of a construction-reserve fund, with the privileges and subject to the limitations herein prescribed.

That is the construction reserve fund. The other section could be used, but the

money could not be paid out of this fund.

Mr. BARRETT. In other words, am I to understand that the construction reserve fund must be built up year by year and used only as it accrues?

The PRESIDING OFFICER (Mr. TALMADGE in the chair). The Senator from Wyoming will suspend until the Senate is in order. The Senate will be in order. Senators desiring to converse will retire to the cloakrooms, so that the colloquy between the Senators may be heard.

The Senator from Wyoming may proceed.

Mr. BARRETT. As I understand, the construction reserve fund can be used only on a year-to-year basis over a period of 5 years. Is that correct?

Mr. BRICKER. Yes; and it is under the joint control of the carrier and the Interstate Commerce Commission.

Mr. CARLSON. Mr. President, will the Senator yield?

Mr. BRICKER. I yield.

Mr. CARLSON. First, I wish to commend the distinguished Senator from Ohio for the splendid presentation he has made of the bill. I wish also to commend the Committee on Interstate and Foreign Commerce for the work it has done on the proposed legislation, which I believe is essential for the continuing operation of our railroads, which are so important to our defense and economy.

I should like to ask the Senator some questions with respect to section 6, which deals with guaranteed loans. I have received a telegram from the Topeka Chamber of Commerce. I shall read one sentence from the telegram, and then I shall ask that the entire telegram be printed in the RECORD. I read as follows:

The Chamber of Commerce of Topeka, Kans., has given careful consideration to Senate bill 3778, and urges passage of this bill with the exception of the Federal guaranteed loan provision.

Mr. President, I ask unanimous consent that the entire telegram be printed in the RECORD at this point.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

TOPEKA, KANS., June 10, 1958.

HON. FRANK CARLSON,
Senate Office Building,
Washington, D. C.:

The Chamber of Commerce of Topeka, Kans., has given careful consideration to Senate bill 3778, and urges passage of this bill with the exception of the Federal guaranteed loan provision. The serious condition of the railroads is very evident and is jeopardizing their position as the basic part of our national transportation industry. We are convinced that the more favorable competitive and financial provisions proposed in S. 3778 will enable the carriers to improve their status and benefit the public.

R. M. BUNTON,
President, Topeka Chamber
of Commerce.

Mr. CARLSON. I should like to ask the distinguished Senator if consideration was given to this provision, and what action—

Mr. BRICKER. Yes; it was. No one on the committee desires to put the Government in the loan field so far as the railroads are concerned, unless it is absolutely necessary. It has been done before, as the Senator knows. It was done

through the RFC, and during the war. However, it will not accomplish the purpose unless the rails are given an opportunity to get higher income and can initiate more economical operation of their facilities, as well as get rid of some of their loss operations, and also obtain more control over their freight rates.

As I said before, railroad rates are fixed by the Federal Government and State governments. Railroad wages are fixed by the Government. Even the operation of their trains is determined by the Federal Government and the State governments. All safety appliances and all fixtures in relation to safety are determined by the Federal Government.

So they are very tightly regulated. They will have to be freed from some of the regulation, particularly in the field of ratemaking, or they cannot pay back their loans.

Mr. CARLSON. I raised the issue because it was raised with me in the telegram. When I support the bill, with which I am heartily in accord, I want to have some answer to give these folks.

Mr. BRICKER. The western railroads are not in as bad a condition as are the eastern railroads. That is due to the fact that the eastern railroads operate in heavily populated territory, make shorter hauls, and have more intense competition from other modes of transportation. That is not true of the railroads which operate in the western area.

Mr. LAUSCHE. Mr. President, will the Senator yield?

Mr. BRICKER. I am glad to yield to my distinguished colleague.

Mr. LAUSCHE. I wish to supplement the statement made by my senior colleague concerning the discussions which were had and the testimony which was received on the subject of finance. One of the first witnesses to testify was the president of an eastern railroad. He submitted the bold proposition that the Government should subsidize the railroads. He said that every other mode of transportation is being subsidized, and asked how the railroads could be expected to furnish commuter service without a loan.

Another witness, who was supported by several others who testified, urged that Congress create a \$5 billion fund with which the Federal Government would buy equipment and then sell it to the railroads.

A third proposition was that the Government should make direct loans.

Culling from the three proposals, I, as a member of the subcommittee, came to the conclusion that the railroads in the East were in financial distress. I do not think that any challenge can be made of that conclusion.

Out of the four recommendations we adopted the thought that there was justification for having the Federal Government guarantee loans made to the railroads. I questioned the use the railroads might make of the fund, but generally I subscribed to the proposal. I do not feel that the railroads should pay dividends to their stockholders from the fund, and I do not think they should be permitted to pay operating expenses. I

wanted to have the fund circumscribed, to be used only for investment in capital improvements.

Mr. CARLSON. The statement by the distinguished junior Senator from Ohio further helps me in replying to those who have been in communication with me. I thank the Senator very much.

Mr. LAUSCHE. We reluctantly—at least, I did—came to the conclusion that we should guarantee the loans; but I do not think there is any other escape.

Mr. POTTER. Mr. President, will the senior Senator from Ohio yield?

Mr. BRICKER. I yield to the Senator from Michigan.

Mr. POTTER. I commend the subcommittee, which worked so hard, so long, and so diligently to report a bill which has met with the acclaim which this bill has had, considering the highly competitive nature of the transportation industry, with its different modes of transportation.

The committee has reported a bill which deals with a complex problem; but its acceptance by all modes of transportation shows, I think, a high degree of statesmanship, not only on the part of the subcommittee, but also on the part of the leaders in the various modes of transportation who worked closely with the subcommittee.

I should like to have in the RECORD the comments of the distinguished senior Senator from Ohio, who is one of the knowledgeable members of the committee in the field of transportation, and who has had vast experience in the Senate, on the language which is contained in the ratemaking section of the bill. The language to which I refer reads:

Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this act.

It is my understanding of the national transportation policy that the inherent advantages of each mode of transportation shall seek its level. In other words, one mode of transportation shall not be protected at the expense of another mode of transportation. Is that the Senator's concept of the meaning of this language?

Mr. BRICKER. That is a proper interpretation. The rates made by railroads should not be held at a certain level to protect a carrier in another mode of transportation; in other words, the rate should be considered as a part of the whole rate structure and a part of the rail structure, rather than as a part of the overall structure of the various other modes of transportation.

Mr. POTTER. Is it not the intention to recognize that each mode of transportation, whether it be rail, truck, or water, has its own inherent advantages?

Mr. BRICKER. It is.

Mr. POTTER. Because each mode of transportation has used the national transportation policy as its guide or bible, we wrote into the bill the provision that ratemaking shall be consistent with the national transportation policy. Therefore, the Commission will never

be in the position of having to hold an umbrella over one mode of transportation at the expense of another.

Mr. BRICKER. That is correct.

Mr. LAUSCHE. Mr. President, will my colleague yield?

Mr. BRICKER. I yield.

Mr. LAUSCHE. I cite the Transportation Act of 1940, and certain statements which were made when that act was passed. The committee wrote into the report then that it was the "policy of Congress to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this act so administered as to recognize and preserve the inherent advantages of each."

The committee also said:

The ratemaking rule has been amended to expressly provide adequate safeguards for the public and at the same time the Commission is directed in prescribing a rate to consider its effect on the movement of traffic only by the particular type of carrier for which the rate is prescribed. That is, in prescribing a rate for water carriers the Commission will not consider the effect of that rate on the movement of traffic by either rail or motor carrier.

Also, the report of the committee of conference stated:

The conferees are unanimously in harmony in the viewpoint that the inherent advantages of each type of carrier should be preserved for the benefit of the Nation. Legitimate regulation must look to the protection of the economic advantage of each type of carrier against destructive competition of the other. No carriers should be required to charge unreasonable rates for the benefit or purpose of compelling diversion of traffic to a competitor.

So the purpose of the bill in 1940 was to preserve for each mode of transportation its inherent advantage, and the Commission was not required to hold an umbrella over competing modes—that is, airlines, bargelines, or trucklines.

Mr. POTTER. Mr. President, will the senior Senator from Ohio further yield?

Mr. BRICKER. I yield.

Mr. POTTER. As I understand, it is the intent of the ratemaking section of the bill really to reaffirm existing law—in other words, to reaffirm what the Congress already has said is to be the policy. This provision is included because at times the Commission has sought to stray from the declared policy of existing law; and therefore we wish to make sure that the Commission conforms to the national transportation policy. Is that correct?

Mr. LAUSCHE. Mr. President, the Senator from Michigan is exactly correct, and his statement is in strict conformity with the discussions had and with the purposes enunciated in the act of 1940.

Mr. BRICKER. Mr. President, I desire to thank both the Senator from Michigan and my colleague from Ohio, especially for bringing out the point that the bill applies equally and fairly to all modes of transportation.

Mr. THYE. Mr. President, will the Senator from Ohio yield to me?

The PRESIDING OFFICER (Mr. TALMADGE in the chair). Does the Senator from Ohio yield to the Senator from Minnesota?

Mr. BRICKER. I yield.

Mr. THYE. Mr. President, I wish to ask a question: Will the bill exempt only the commodities listed as exempted from the application of rule 107?

It appears that fears have arisen in regard to some items as to which no controversy has developed. One of them may be soybeans, a commodity which is not included in the list, although it is generally recognized as being an exempt commodity.

Will the bill in any manner jeopardize the freight rates on grains, especially on soybeans, which are not specifically stated as being under the rule?

Mr. BRICKER. I do not think there will be any change in the Agricultural Exemption Act, if that is what the Senator from Minnesota is referring to.

Mr. THYE. Yes.

Mr. BRICKER. There will be no change. Under it, any agricultural commodity is exempt if it is hauled from the farm to the market.

Mr. THYE. But there has been some doubt in the Department of Agriculture and among the shippers, I believe, as to whether the bill might in some manner change the status of these grains, which are not specifically stipulated as being under the rule.

Mr. BRICKER. Certainly there was no intention on the part of the committee to do so; and I do not think the bill does, because the agricultural exemption applies to all agricultural commodities in their shipment from the farm—to the transportation to the processor, wherever he may be.

Mr. THYE. If the bill goes to conference, I assume that further consideration will be given there to that point.

Mr. BRICKER. Certainly. There is no desire to interfere with that exemption or to remove it.

Mr. YOUNG. Mr. President, will the Senator from Ohio yield to me?

Mr. BRICKER. I yield.

Mr. YOUNG. At the present time, if a railroad wishes to abandon a branch line or wishes to abandon passenger or other service on a branch line, the procedure is that it appeals to the public service commission of the State; is that correct?

Mr. BRICKER. That is correct.

Mr. YOUNG. And if the public service commission of the State renders an adverse opinion, the railroad can then appeal to the Interstate Commerce Commission; can it not?

Mr. BRICKER. No.

Mr. YOUNG. How would that procedure be changed by the pending bill?

Mr. BRICKER. Confusion arises when a railroad has, let us say, four trains running between Columbus, Ohio, and Indianapolis, Ind. Ohio might permit the railroad to take off 1 train, running at 10 a. m. and Indiana might permit the railroad to take off 1 train running at 2 p. m. But in that event the railroad would have to continue the operation of all of them in order to meet the requirements of the local and State groups. That situation has led to interminable delay and confusion which would be relieved as a result of enactment of the pending bill in that then the railroads

could appeal to the Interstate Commerce Commission.

In addition, there has been a great deal of pressure, because of local pride or otherwise, to maintain certain railroad service, even though it may have been highly unprofitable. Under the provisions of the bill, under such circumstances an appeal directly to the Interstate Commerce Commission, would be possible.

Mr. YOUNG. If there were a difference between the holdings or rulings, which one would prevail?

Mr. BRICKER. The ruling of the Interstate Commerce Commission would prevail.

Mr. YOUNG. Is that the case at the present time?

Mr. BRICKER. In the case of an application for complete abandonment, yes. But in the case of an application for limited or restricted service, no. At the present time, the Interstate Commerce Commission has jurisdiction over an application for the complete abandonment of a railroad.

Mr. YOUNG. So the State commissions would, as a result, lose some of the power they now have, would they?

Mr. BRICKER. Yes; some jurisdiction over local transportation.

Mr. President, if there are no other questions to be asked, let me say that it is my hope that the bill will be passed.

Let me give assurance to the Senator from New York [Mr. JAVITS] in regard to the fears he has expressed. Senate Resolution 303 particularly calls attention to the problem involved in commuter service. Therefore, I think the fears of the Senator from New York may be allayed, in view of the fact that a broad investigation will be made. The investigation was authorized today by the Committee on Rules and Administration, so I am advised by the Senator from New Jersey—and the necessary funds will be made available.

I assure the Senator from New York that the Committee on Interstate and Foreign Commerce will not do anything to prevent the working out of the problem.

Mr. JAVITS. Mr. President, I am a member of the Committee on Rules and Administration, and I was very much in favor of the investigation resolution.

What worries me—and later, when I can obtain recognition for that purpose, I shall endeavor to clarify the matter, by means of an amendment which I shall discuss—is the statutory language which will be involved if the bill as it now stands is enacted into law.

Perhaps the Senator from Ohio, who has been so gracious in yielding, would prefer to have me discuss that matter after I have obtained the floor in my own right. In any event, I wish to state that I am very grateful.

Mr. BRICKER. Mr. President, let me point out that under the resolution which was agreed to a year ago, a thorough exploration was made of that matter; and very full advice, information, and so forth, were obtained. Let me say that I hope the local governments will pursue their responsibilities in that connection.

Mr. President, I ask unanimous consent that there be printed in the RECORD as a part of my remarks two articles prepared by the staff of the committee, one dealing with intrastate rail rates and railroad services and facilities, and the other dealing with the competitive rate-making section of the bill.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

S. 3778 (INTRASTATE RAIL RATES AND RAILROAD SERVICES AND FACILITIES)

Let me say a word about sections 3 and 4 of S. 3778, having to do with intrastate rail rates and railroad services and facilities. Section 3 of the bill contemplates amendment of section 13 of the Interstate Commerce Act; and section 4 of the bill contemplates the addition to the Interstate Commerce Act of a new section 13a.

Under section 13 of the Interstate Commerce Act the Interstate Commerce Commission is authorized, in certain cases, to require changes in intrastate rates. If it finds, after full hearing, that any rate made or imposed by State authority causes any undue or unreasonable advantage, preference or prejudice as between persons or localities in intrastate commerce on the one hand and interstate commerce on the other, or any undue, unreasonable, or unjust discrimination against interstate commerce, the Commission is empowered to prescribe for the future such rate as, in its judgment, will remove the advantage, preference, prejudice, or discrimination; and the rates so prescribed by it "shall be observed while in effect * * * the law of any State or the decision or order of any State authority to the contrary notwithstanding."

The Commission and the courts have construed the phrase "undue, unreasonable, or unjust discrimination against interstate * * * commerce" as encompassing discrimination against interstate commerce resulting from intrastate rate levels relatively so low that they fail to contribute their proportionate share of the revenues necessary for the maintenance of an adequate railroad system. The Commission has often availed itself of the power conferred upon it, so construed, and ordered increases in the level of intrastate rates.

There are certain difficulties, however. I will mention only one. Inordinate delays are often encountered. The ICC is hesitant to exercise its jurisdiction until application has been made to the State commission for authority to make the desired adjustment in intrastate rates, and until the matter has been finally disposed of at the State level. This is on the principle of what the ICC calls comity.

To overcome the matter of burdensome delay in obtaining prescription of lawful intrastate rates by the ICC (primarily this matter of comity) it is proposed to provide in section 13 of the Interstate Commerce Act that upon the filing of a proper petition involving any intrastate rate, the Commission shall forthwith institute its investigation (whether or not the rate has been considered by the State commission and without regard to the pendency of any State proceeding thereon) and act with special expedition. This is section 3 of the bill.

Turning now to the problem of rail services and facilities, meaning those of an unprofitable nature.

The Interstate Commerce Act does not, it appears, presently confer upon the ICC any jurisdiction with regard to the discontinuance or change of railroad services or facilities. To the extent that jurisdiction over such matters exists it is in the hands of the States, and the railroads find especially burdensome the delays and adverse rulings they often encounter at the State level in seeking

to discontinue or otherwise deal with unprofitable operations.

To afford needed relief in this regard it is proposed to provide in section 4 of the bill that where State law or authority inhibits the discontinuance or change of any rail service or facility a railroad may nevertheless seek to effect the desired discontinuance or change notwithstanding any State law or order (and without regard to any pending State proceeding relating thereto) by filing a 30-day notice of intention with the ICC. Upon the filing of such a notice the ICC would then have jurisdiction in lieu of the State (there being no ICC jurisdiction unless such notice is filed), and could within the 30-day notice period upon complaint, or upon its own motion, enter upon an investigation. It could suspend the proposed effective date of the discontinuance or change for as long as 4 months (but no longer), pending investigation.

After its investigation (whether finished before or after the time the discontinuance or change became effective) the Commission could, if it made certain findings, order the continuation or restoration (whichever might be appropriate) of the service or facility. To do so it would have to be found that the operation and maintenance of the particular service or facility is required by public convenience and necessity and will not result in a net loss to the railroad or otherwise unduly burden interstate commerce. If the ICC made these findings it could require the service or facility to be operated for up to 1 year.

At the end of this period, the situation would revert to that existing prior to the filing of the notice with the ICC.

The disastrous extent of the railroad passenger deficit, \$700 million a year or more, clearly demonstrates the necessity for enactment of legislation such as that here proposed.

SECTION 5 OF S. 3778 (COMPETITIVE RATEMAKING)

Section 5 of S. 3778 deals with the subject of competitive ratemaking. It would write into the Interstate Commerce Act a new section to be known as section 15a (3) as follows:

"In a proceeding involving competition between carriers of different modes of transportation subject to this act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this act."

During the lengthy hearings conducted this session of the Congress by the Surface Transportation Subcommittee, and later by the full Committee on Interstate and Foreign Commerce, a subject that commanded particular attention was that of competitive ratemaking as between different forms of transportation subject to the Interstate Commerce Act. Spokesmen for the railroad industry urged enactment of a suggested amendment to the Interstate Commerce Act that—I think it must be conceded—would have rather severely restricted the authority and discretion of the Interstate Commerce Commission in its regulation of rates proposed by one form of transportation to meet competitive situations involving another form of transportation. While the committee has not seen fit to report a bill incorporating the proposal advanced by the railroads, it has become clear that amendatory language of some kind is necessary.

Witnesses appearing before the committee cited any number of instances in which the

Interstate Commerce Commission (especially in recent years) has declared rates proposed by one form of transportation, particularly the railroads, to be unreasonably low even though the rates were demonstrated to be reasonably compensatory and even though they would have been nondiscriminatory as among shippers. It is fairly clear that in certain instances the ICC has required the rates of one form of transportation to be held up higher than the proposing form wished because of the effect it was felt the rates might have upon one or another of the competing forms of transportation.

It was of this that the railroads complained. Their complaint is that while the Interstate Commerce Act and the statement of national transportation policy which precedes it contemplate that each form of transportation is to be allowed to assert its inherent advantages there have nevertheless been unreasonable restraints imposed upon the railroads when they sought to avail themselves of their usual inherent advantage of low cost. To put it another way, the railroads' argument has been that when they tried in certain situations to make rates reflecting their lower cost of performing transportation service they have been prevented from doing so because of the impact those rates would or might have on motor carriers or water carriers.

The testimony before the Committee on Interstate and Foreign Commerce, on this point showed, if it showed nothing else, that the Interstate Commerce Commission has been something less than consistent in the application of the rules and criteria it employs in determining whether a competitive rate proposed by one form of transportation is or is not within reasonable bounds. Cases were cited to show that the ICC, in determining the reasonableness of a rate, gives a great deal of weight to what the effect of the rate will be upon a competing form. On the other hand, cases were cited in which the Commission had said that the effect of the rate of one form of transportation on another form of transportation is as a matter of law immaterial. This inconsistency has made for a great deal of confusion in the ratemaking process of regulated carriers.

As I have said the committee did not feel that it would be justified in adopting so strong a remedy as that proposed by the railroads. The committee does feel, however, that the present state of administration of the Interstate Commerce Act in the area of regulation of competitive rates leaves much to be desired. For that reason we have, by favorably reporting section 5 of S. 3778, endeavored to lay down a rule which will more definitively spell out the intention of the Congress as to the criteria that ought to be followed by the Commission in cases involving competition between carriers of different modes of transportation.

No form of transportation, including the railroads, appears to quarrel extensively with the terms of the Interstate Commerce Act as it is now written in respect of ratemaking. The controversy arises because of differing views as to how the act ought to be construed and administered. As a starting point, then, we have tried to ascertain the intention of the Congress when it enacted the Transportation Act of 1940.

We are convinced that Congress, in 1940, intended that for the most part the rates of each form of transportation would be determined and regulated in the light of the characteristics of that particular form. While it was not intended to exclude from the commission's consideration the relationship between the charges of one form of transportation and the charges of another form, certainly it was thought that primary weight and emphasis would be given to and placed upon the facts and circumstances surrounding the movement of the traffic by

the form of transportation to which the rate was intended to apply.

No useful purpose would be served by recounting at length the various points of legislative history upon which we have relied in arriving at our conclusion. I do think, however, that it is worthwhile to point out that Congress in 1940 established for each of the forms of transportation subject to the Interstate Commerce Act a separate rule of ratemaking. For example, in that part of the Interstate Commerce Act having to do with the regulation of railroads it is provided that "in the exercise of its power to prescribe just and reasonable rates the commission shall give due consideration, among other factors, to the effect of rates on the movement of traffic by the carrier or carriers for which the rates are prescribed." Similar language is contained in the other parts of the act that apply to motor carriers and to water carriers and to freight forwarders.

This, it can be demonstrated, was thought to reflect an intention that each type of carrier would have questions as to the reasonableness of its rates decided on the basis of the conditions applying to its own form of transportation.

In an early case or two (see, for example, *Seatrains Lines v. Akron, C. & Y. Ry.* (243 ICC 199, decided in 1940)) the Interstate Commerce Commission itself said that no carrier should be required to hold its rates up for the purpose of protecting the traffic of its competitor. But the Commission failed to adhere to this principle. Later, in 1945, in a case which you will find cited in the committee's report on this bill (*New Automobiles in Interstate Commerce* (259 ICC 475)) the Commission undertook to re-examine the criteria that ought to be used by it in deciding competitive ratemaking cases. Recognizing that there had been "occasional deviations" it stated in clear language what it considered at that time to be a proper interpretation of the law. The Commission said:

"As Congress enacted separately stated ratemaking rules for each transport agency, it obviously intended that the rates of each such agency should be determined by us in each case according to the facts and circumstances attending the movement of the traffic by that agency. In other words, there appears no warrant for believing that rail rates, for example, should be held up to a particular level to preserve a motor-rate structure, or vice versa." [259 ICC at p. 538.]

This statement by the Interstate Commerce Commission in 1945 reflects a proper interpretation of the original Congressional intent. That intent ought to be reaffirmed; and it is by section 5 of S. 3778 that we propose to reaffirm it. By reaffirming it we are hopeful that future decisions of the Interstate Commerce Commission in cases involving rates in situations where two forms of transportation are competitive will follow a consistent line and that all may know what the proper rule of competitive ratemaking is.

The whole purpose is to say in fairly clear terms that each form of transportation should have full opportunity to make such rates as reflect its own inherent advantages so that the public may in every case have the ability and the opportunity to exercise its choice of the form of transportation to be used, cost and service considered, in the light of the transportation task to be performed. This will encourage fair and constructive competition. I emphasize the words "fair and constructive" because by the language in section 5 of the bill we are now considering the Commission, even though it is not to hold the rate of any carrier up to any particular level for the purpose of protecting the traffic of some other mode of transportation, is nevertheless to give due consideration to the objectives of the declaration of na-

tional transportation policy which prefaces the Interstate Commerce Act. That declaration of policy, I need not tell you, discourages unfair and destructive competitive practices.

Under the rule of ratemaking proposed by this bill to be incorporated into the Interstate Commerce Act the Interstate Commerce Commission will not be precluded from looking into facts and circumstances attending the movement of traffic by some carrier other than that proposing the rate; but it is the purpose of the proposed new rule to insure that the principal and primary emphasis is placed by the Commission upon the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable.

All in all what is here proposed to be done seems a happy solution to what started out as, and for some time continued to be, a raging controversy between the railroads on the one hand and other forms of transportation on the other. It is not a drastic proposal, but it is intended to serve as and should serve as an admonition to the Interstate Commerce Commission to follow what was the intention of Congress at the time the present law was written on the statute books in 1940.

What we propose to do, in a word, is make it crystal-clear that the Interstate Commerce Commission itself was correct when it said in 1945 in the New Automobiles case that the rates of each transport agency should be determined always according to the facts and circumstances attending the movement of the traffic by that agency, and that the rates of one form of transportation should not be held up or increased to a particular level in the interest of some other form.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New York will state it.

Mr. JAVITS. Is an amendment in order to another section of the bill?

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment. An amendment to that amendment would be in order, but not to any other part of the bill at this time.

Mr. JAVITS. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment.

Mr. DIRKSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Pastore in the chair). Without objection, it is so ordered.

Mr. SMATHERS. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc, and that the bill be considered as an original text for the purpose of further amendment.

Mr. RUSSELL. Mr. President—

The PRESIDING OFFICER. The Senator from Georgia.

Mr. RUSSELL. Reserving the right to object, I desire to address an inquiry to the distinguished Senator from Florida with reference to some language appearing on page 18 of the bill, lines 9 and 10. Any legislation which has to do with the complicated rate structures of

this country with respect to transportation systems is rather complex.

I ask the Senator from Florida as to the effect of the language, which refers to "cooked or uncooked—including breaded—fish or shellfish, when frozen or fresh." What effect will that language have on the seafood packers of the country? Did those packers make any representations to the committee headed by the distinguished Senator from Florida, giving their views on the subject?

Mr. SMATHERS. We afforded the opportunity for those people to appear on two occasions before our committee, in an endeavor to arrive at language which would satisfy them. The national president of the seafood association happens to be from Sea Island, Ga., one of the more attractive places in the very attractive State of Georgia. However, he was originally a Floridian.

We endeavored to work out language which would permit this kind of fish product to be transported in unregulated carriers. We felt that was important because obviously this type of fish, even when frozen, and certainly when fresh, is very perishable.

When the packers are limited to regulated carriers which run on certain schedules, for the transportation of their product, frequently they cannot obtain service from the carriers when needed. When the packers make a big catch of fish, since the fish are perishable it is necessary to start them on their way. These packers have to have complete flexibility.

We wanted to make it extremely clear that under no circumstances would such commodities be regulated. Those commodities will receive the benefit of the exemption which was applied to them in the original section 305.

Mr. RUSSELL. I assume the language was completely satisfactory to the seafood industry.

Mr. SMATHERS. The language was completely satisfactory to the seafood industry. The Senator from Massachusetts [Mr. KENNEDY] propounded a question to me with regard to that matter. We will make the RECORD a little more complete on some other seafood matters, as to which interest has been expressed by the people from the New England States.

Mr. RUSSELL. Mr. President, I appreciate the comments of the Senator. I wish to express my gratification that the seafood industry in my section had the precaution to elect a Georgian who had his origin in Florida as the president of the industry. [Laughter.]

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. SMATHERS. I am happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. Is it the interpretation of the Senator from Florida that the bill attempts to exempt such frozen fisheries products as cod fish cakes, deviled crab, fish with sauce, fish dinners, and similar sea food products, even though they are shown as "not exempt" in ICC ruling No. 107?

Mr. SMATHERS. The answer to that question is in the affirmative, "Yes." It

was our intention that the items be exempt. We could not write into the law, Mr. President, all these various items which have seafood in them. If we had, the bill would have had to belong to some of the tax laws. As best we could we made references to these subjects in the report and in the colloquy on the floor. I am very happy to say "Yes," it is our understanding such products would be exempt under the provisions of the bill.

Mr. KENNEDY. In other words, seafoods which are preserved, such as canned or smoked fish, for example, are not exempt, but fresh or frozen seafoods which are perishable are exempt?

Mr. SMATHERS. The answer is "Yes." The factor which governs whether the article is exempt or not exempt is how perishable it is. If the seafood is canned, as is true with respect to some salmon and other fish of that nature, then the item does not need an exemption, because it can be held to await the service of regulated carriers. When the food is perishable or in a perishable state, obviously flexibility is needed.

Mr. KENNEDY. I thank the Senator. It will be good news in New England tonight when the word goes out about the codfish cakes.

Mr. SMATHERS. I am delighted the people of Massachusetts like those codfish cakes.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. SMATHERS. I am happy to yield to the Senator from Vermont.

Mr. AIKEN. I should like to have a clarification of the provision on line 18, page 17:

Provided, That the words "property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" as used herein shall include property shown as "Exempt" in the "Commodity List" incorporated in ruling No. 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as "Not exempt."

I think the reference to "property shown therein as 'Not exempt'" is perfectly plain. However, as I understand, this language would freeze exemptions to commodities which are now exempt, with a few—particularly frozen foods and vegetables—frozen out of the exempt list. As I understand, the exempt list specifies, we will say, "peaches in 8-pound bags," or "peaches in baskets," or "peaches shipped this way," or "other fruits." These fruits are mentioned in connection with the container or the manner in which they are shipped. The language does not make reference to the fruits themselves.

Is it possible that in the future this language could be so interpreted as to take from the exempt list those fruits and vegetables, should someone desire to ship them in some other type of container, or in some manner which is not customary at the present time.

Mr. SMATHERS. The question was raised by certain fresh fruit and vegetable growers, as to whether or not,

certain products not having been mentioned, they might at some future time be subjected to regulation which no one intended. We have written into the report some language which we believe makes it perfectly clear that all exemptions originally granted in the 1935 act with respect to basic products, agricultural products, including fish, and certain types of meat, will stand fast. Such products shall have the privilege of exemption, no matter what type of container they are shipped in. They will still maintain their exemption, so long as they maintain their original form.

Mr. AIKEN. I asked for clarification of the RECORD at this point because a question had been raised by the Department of Agriculture as to what interpretation might be placed on this wording later.

Mr. SMATHERS. I thank the Senator.

Mr. CASE of New Jersey. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. CASE of New Jersey. I refer to the same section. In lines 6, 7, 8, and 9 on page 18, there is language which would exclude from the exempt category frozen fruits, frozen berries, or frozen vegetables now exempt from regulation.

Mr. SMATHERS. Yes.

Mr. CASE of New Jersey. This is a matter which has been brought to my attention as being of serious concern to important segments of the industry in New Jersey.

The statement has been made that this provision would be a serious deterrent to the efficiency and economical conduct of the operations of that industry. It does not involve much in the way of additional revenue to the transportation industry.

I am here expressing for my constituents—and I believe the same consideration applies to the constituents of a number of other Senators who are not now present; I believe the Senator from Texas [Mr. YARBOROUGH] and other Senators have an interest—their concern over the situation. I wonder if there is a possibility that the committee might consider an amendment—and one has been submitted by the Senator from Maryland [Mr. BEALL]—to strike that language and leave in, as exempt, frozen fruits, frozen berries, and frozen vegetables. I do not possess the same degree of eloquence as does the Senator from Massachusetts [Mr. KENNEDY], who has spoken in regard to the products of the sea. However, I have the same deep feeling in regard to the products of the soil included in this bill, and I think they should be treated in the same way, because the same conditions apply—the need for flexibility of transportation, speed, and so forth. It is not a matter of significance to the transportation industry, as I have been informally advised by several in the industry with whom I have talked.

Mr. SMATHERS. The Senator from New Jersey need not apologize for any lack of eloquence. I think his eloquence far exceeds the justification for his case in this particular instance.

Mr. CASE of New Jersey. That is a compliment of which I can accept only half.

Mr. SMATHERS. We have wrestled with every one of these problems. Everyone wanted something a little different. However, it was the conclusion of the subcommittee, after listening to the witnesses representing specific industries, not only from New Jersey and Maryland, but from other States that there should be a rollback. The Sea Crest concern is the largest packer and shipper of frozen fruits. We talked with its representatives many times, and listened to their suggestions. However, it was the conclusion of the subcommittee and the full committee that we needed a rollback with respect to frozen fruits and vegetables, so as to make them what we thought they were originally intended to be, namely, nonexempt.

The reason for that, very simply, is this: The very man who originates the request referred to by the able Senator from New Jersey undoubtedly has in his packing plant an operation in which he cans a part of the vegetables he receives. He freezes another part. He puts another part into frozen concentrates, and so forth. He has a big operation, in which the canned fruit, the concentrated juices, and things of that nature, must be carried by regulated transportation.

Up until about a year ago, even frozen fruits and vegetables were carried by regulated transportation; but by virtue of a court decision they were suddenly deregulated in that particular area. So we did not feel that it was fair to those who must compete with the producers of frozen fruit and vegetables, that is, those who are not in the canning business, and those in the concentrate business—who, in effect, are in the same business—to require them to ship by regulated transportation, whereas, the frozen vegetable dealers would be permitted to ship by unregulated transportation.

There was some objection to that conclusion on the part of certain interests. We adopted the program knowing that it was not the kind that would satisfy everyone, even though in this particular connection we had gone as far as we could to satisfy all interests.

So I asked the able Senator from New Jersey to withhold pressing that particular point. We have gone into the subject, and we do not think we are in a position to accept an amendment which would, in effect, give to the frozen fruit and vegetable dealers the exemption which they seek.

Mr. CASE of New Jersey. I am sure the able Senator and the other members of his subcommittee have given what, in their judgment, is adequate and fair consideration to the problem. However, it is a little difficult for one in my position to accept a result which continues the exemption for everyone else, adds exemptions for products of the sea, and leaves only my constituents and the constituents of Senators from a few other States out in the cold.

Mr. SMATHERS. I would not want the Senator to base his argument on that point. The Senator represents the

people of New Jersey, the great State in which I was born.

Mr. CASE of New Jersey. We are very proud of that fact.

Mr. SMATHERS. I was greatly concerned about the exemption for products of the sea. In addition, there is also a great canning industry in the Senator's State; and canners do not want what the Senator is asking for. Some of the concentrate dealers do not seek that for which the Senator is asking. They make the very fair argument, "So long as we are basically competitors, why should we be put on one standard of competition, while others are put on another standard of competition?"

In effect, this provision merely places all those in the fresh fruit and vegetable business—the products being once removed from their original State—on the same platform, on which they can compete.

Mr. CASE of New Jersey. I do not wish to take the time of the Senator unduly, but it seems very clear to me that it is impossible to avoid a comparison between the treatment which is given—I think properly—to seafood and the like, as well as to poultry products from Arkansas and other States, and the treatment which is not given to frozen fruits, frozen berries, and frozen vegetables. The difference between canned and permanently packed fruits and vegetables is the same as the difference between canned and permanently packed seafood and frozen food. If one is perishable, the other is perishable; and the need for rapid and flexible transportation applies in both cases.

Mr. SMATHERS. The able Senator's State is not alone. I would not want him to think that this bill represents any discrimination against him.

Mr. CASE of New Jersey. I do not think it was so intended.

Mr. SMATHERS. We in Florida have this problem to as great an extent as do the people of New Jersey, and we can thoroughly understand it. However, the subcommittee and the full committee, after wrestling with this problem for many weeks, decided that all these people should be placed on the same basis, so that they can compete from the same basis.

Mr. CASE of New Jersey. I thank the Senator for indulging me during this colloquy. I cannot honestly say that I have been persuaded—not that there is any intentional or vicious attack on the industry, but, rather, that there is a mistake being made in its treatment—and I should like to reserve for a little while longer the question of whether the amendment should be pressed.

Mr. SMATHERS. I thank the Senator. The PRESIDING OFFICER (Mr. KENNEDY in the chair). Is there objection to the unanimous-consent request of the Senator from Florida, that the committee amendments be agreed to en bloc? The Chair hears none, and it is so ordered.

The committee amendments agreed to en bloc are as follows:

On page 7, after line 11, to strike out: "(3) In a proceeding involving competition with another mode of transportation, the

Commission, in determining whether a rail rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by railroad and not by such other mode."

And, in lieu thereof, to insert:

"(3) In a proceeding involving competition between carriers of different modes of transportation subject to this act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this act."

On page 13, line 11, after the word "Treasury", to insert "and under the joint control of the carrier and the Commission"; in line 18, after the word "section", to insert "and only after the expenditure for the purposes established in paragraph (1) of this section of the principal amount on which such earnings accrued"; in line 22, after the word "deposit", to insert "of such earnings"; on page 14, line 6, after the word "the", where it appears the first time; to strike out "filing of the income tax return of such common carrier for such" and insert "fifteenth day of the third month following the end of such common carrier's"; after line 14, to strike out:

"(4) In computing the gross income under section 61 (a) of the Internal Revenue Code of 1954, as amended, of any common carrier subject to this act there shall be included all amounts withdrawn during the taxable year from the said construction reserve fund for purposes other than those specified in paragraph (1) of this section: *Provided*, That any amount deposited in the reserve fund which shall be permitted to remain in such fund for 5 years after having been deposited therein shall be considered to have been so withdrawn from such fund on the first day following the expiration of such 5-year period. Such amounts shall be subject to tax at the rate or rates and shall be subject to the provisions of the Internal Revenue Code of 1954 as amended, applicable to the year in which such amounts were deducted under paragraph (3) of this section (including the interest provisions of such Code as amended, as if a tax deficiency would exist for such year otherwise). For the purpose of this section, any amounts expended or withdrawn from the reserve fund shall be applied against amounts deposited therein in order of the deposits."

And, in lieu thereof, to insert:

"(4) In computing the gross income under section 61 (a) of the Internal Revenue Code of 1954, as amended, of any common carrier subject to this act there shall be included all principal amounts—

"(a) withdrawn during the taxable year from the said construction reserve fund for purposes other than those specified in paragraph (1) of this section, and

"(b) deposited in the reserve fund which shall be permitted to remain in such fund for 5 years after having been deposited therein shall be considered to have been so withdrawn from such fund on the first day following the expiration of such 5-year period.

All such principal amounts shall be subject to tax at the rate or rates and shall be subject to the provisions of the Internal Revenue Code of 1954, as amended, applicable to the taxable year in which such amounts were deducted in computing taxable income pursuant to paragraph (3) of this section including the interest under section 6601 of such code as amended, as if a tax deficiency had existed for the year for which the deduc-

tion was taken, whether or not a tax deficiency would otherwise exist for such year. For the purpose of this section, any principal amounts expended or withdrawn from the reserve fund shall be applied against principal amounts deposited therein in order of the deposits."

On page 16, line 16, after the word "tax", to strike out "deficiency" and insert "liability"; and in the same line, after the word "thereon", to insert "as computed"; on page 17, line 1, after the word "by", to strike out "that portion of the deposits in the" and insert "the amount from the construction reserve"; in line 22, after the word "include", to strike out "only those commodities" and insert "property"; on page 18, line 1, after the word "Commission", to insert "but shall not include property shown therein as 'Not exempt'"; in line 8, after the word "vegetables", to strike out the comma and "or property imported from any foreign country;" and insert "and shall be deemed to include cooked or uncooked (including breaded) fish or shellfish, when frozen or fresh"; on page 19, line 6, after the word "territory", to strike out "as a common or contract carrier" and insert "as a common, contract, or exempt carrier"; and on page 20, line 18, after the word "is", to strike out "solely within the scope" and insert "incidental to."

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. JAVITS. Mr. President, I call up my amendment to section 4 of the bill.

The LEGISLATIVE CLERK. On page 6, line 13, beginning with the word "that", it is proposed to strike out all language down to and including the word "otherwise" on line 17 and insert the following: "considering the public convenience and necessity and the losses incurred by the carrier or carriers, that the public interest requires the operation or service of such train, ferry, station, depot, or other facility, and it will not."

Mr. JAVITS. Mr. President, the purpose of my amendment is to remove from the bill the present definition of a situation in which a railroad may discontinue a branch line or commuter line—and that is what the amendment refers to—where such operation results in a net loss, and to substitute for that sole criterion now contained in the bill a more general criterion: "Considering the public convenience and necessity and the losses incurred by the carrier or carriers." In other words I would set up two specific standards. First, loss; second, public convenience and necessity.

My point, Mr. President, is that as the bill is written the public convenience and necessity consideration does not control even as a part of the determination of the Commission.

There is no question about the plight of the railroads. I am entirely sympathetic with the work which has been done by the committee, and the committee has served remarkably well in terms of the welfare of the country in trying to produce some solutions to the situation which confronts the railroads.

There is no question also about the fact that one of the problems of the railroads is the loss operation of commuter services. Of course I come from a part of the country, New York State, where we have a number of large cities, especially New York City, where commuters are a very important segment of our population, and the railroad service they

get is a paramount question of public interest.

I might say, so that my colleagues will understand the significance of this matter, that my amendment applies not only to New York City and other great cities of my State, but it applies also to any other great city in the country, whether it be Atlanta or Philadelphia or Detroit or San Francisco, or any other large city. To those cities this is a very important matter.

I say it is vital for this reason. I know very well that the pending bill will be acted on by the Senate and will then have to go to the other House. Then it will have to go to conference, and the differences will have to be settled in conference. However, unless we flag the situation at this stage, it may never get done, or done with the impact that is required under the circumstances.

My objection to the provision as written by the committee is that it moves too far too fast. I invite the attention of the Senate to the words themselves in section 4 of the bill. A carrier is permitted to terminate or discontinue a service, and the Interstate Commerce Commission is given authority to require the railroad to restore service or to continue it, and there is a provision for the temporary stay of the railroad's determination to discontinue a service.

The question then becomes what criterion the Commission shall use in respect to an order to require the continuance of service. The criterion is contained at page 6 of the bill, at lines 15 to 18. I read them:

That such operation or service will not result in a net loss therefrom to the carrier or carriers and will not otherwise unduly burden interstate or foreign commerce.

I respectfully submit to my colleagues in the Senate that the only criterion which is therein set forth is net loss, because the question of the burden on interstate and foreign commerce has nothing to do with a particular operation; if it is a net loss, it does not matter whether or not it is construed as a burden on either interstate or foreign commerce. Therefore, if the Commission could find that public convenience and necessity required nonetheless, despite the fact of the net loss, operation of the particular commuter section which is sought to be discontinued, it is my view, as the bill is written, that it would have no legal power to require it. The discontinuance would be left to the entire discretion of the individual carrier.

It seems to me this is an objective which it is not wise, in the public interest, to legislate into law quite so flatly and absolutely; nor is it an objective which ought to be sought by the pending bill, because it is inconsistent with the general context of other authority which we have given to the Interstate Commerce Commission with reference to abandonment.

Why do I say that the bill tries to move too far too fast? It is because the question of what constitutes net loss will have to be determined by some one somewhere as a matter of law. It is my view, as the bill is now written, that question of law will be decided in terms of a net loss on the particular section of a railroad which

is sought to be discontinued, rather than the net loss on the total operations of the carrier of which that section of the road is a part.

Should that happen, I am advised by the Public Service Commission of the State of New York, the carriers could discontinue all passenger service in the whole east, because almost all passenger service in the east operates at a loss. It is a fact that we do not expect anyone to operate at a loss. However, the question I am raising is one not with respect to a situation where there is an overall loss, but where there is a loss upon a particular section of a railroad. As the bill is written, if a loss is shown on a particular section of a railroad, that railroad can discontinue that section of the railroad, and the Interstate Commerce Commission cannot stop it.

I say that is writing a law far more strictly than we have a right to do, or have any business doing, in fairness to millions of people. The Interstate Commerce Commission does not have this power now. It is now in the hands of State commissions, and the State commissions have very different standards and criteria which they employ. For example, let me cite what applies in my State of New York. I quote from article 3 of the Public Service Law, section 51 (b), which sets up this criterion:

The commission shall have power * * * to determine whether the existing service provided by any such train is reasonably required to provide adequate transportation service. Upon the institution of such an investigation, the commission is authorized by order to require the railroad corporation to continue existing service, pending the holding of public hearings and decision thereon—

And so forth. The bill endeavors to legislate a criterion which is very much restricted and which, if adopted, especially in view of the factual situation with respect to passenger service generally, would be a very dangerous exercise of our power. We would be absolutely binding the Interstate Commerce Commission.

I call attention to the fact that the Interstate Commerce Commission, which today has the right to deal with abandonment of all or any part of a line of a railroad, according to title 49 of the United States Code, section 1, paragraph 18, has this criterion, that "the present or future public convenience and necessity permit of such abandonment."

Let me repeat that, because I think it is very important in this debate, "the present or future public convenience and necessity permit of such abandonment."

That is a very different criterion from the sole criterion of net loss. The fact is that in most of these cases the Interstate Commerce Commission does not have the power today to allow discontinuance. It does have the power to increase rates, where intrastate rates represent an unjust discrimination or burden on interstate commerce.

The committee report itself says, at pages 10 and 11, that the mere increase of rates is not enough; first, because rates may go out of sight; and if they are passed on, patronage will so diminish that the operation will become a

nonviable economic operation; second, merely permitting a rate increase is not practical; that some authority, other than the authority in the State, has to have the right to allow a section of a railroad to be discontinued.

I think we who come from the cities and are concerned with the probable discontinuances of sections of road are going a long way in recognition of the national urgency of the city, by agreeing to give to the Interstate Commerce Commission the power to bring about discontinuance, a power which it does not have now.

I am perfectly willing to go that distance, although I ask unanimous consent to have printed at this point in the RECORD a telegram from the Public Service Commission of my State opposing that very thing.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

ALBANY, N. Y., June 11, 1958.

SIDNEY KELLY, Jr.,

Administrative Assistant to Senator Javits, Senate Office Building, Washington, D. C.

The New York Public Service Commission strongly opposes enactment of sections 3 and 4 of S. 3778 and H. R. 12488—the proposed Transportation Act of 1958—in their present form.

Section 3 would confer upon the Interstate Commerce Commission the power to regulate rates, fares, and charges for all intrastate transportation of persons or property by rail. In terms which would be tantamount to complete Federal preemption of the subject. Section 4 would permit any rail carrier to effect summarily change or discontinuance of any passenger or freight services or facilities without reference to or compliance with State laws, authority or public need. The stated conditions under which the Interstate Commerce Commission might restrain such are completely illusory. Enactment of this section might well, in effect, occasion the termination of virtually all passenger service in the East.

Local rail services and fares are of vital concern to thousands of New York State citizens. Substitution of the type of Federal control which these sections contemplate for the present local regulation of these services would be a distinct disservice to the commuting public and might preclude further local efforts, of which the Long Island Railroad rehabilitation is illustrative, to meet the passenger deficit and other pressing railroad problems.

The Commission urgently solicits your assistance in preventing the enactment of these two provisions of the bill. The same request has been made of all members of the Senate and House Committees on Interstate and Foreign Commerce and of each congressional Representative from this State.

Sincerely,

BENJAMIN F. FEINBERG,
Chairman.

Mr. JAVITS. However, if we are going to go some distance toward helping in the national dilemma with respect to the railroads, we should not go to such an extent as to destroy ourselves in the big cities. I respectfully submit that by making the sole criterion "net loss" for the discontinuance of commuter roads, no less are we engaging in a destructive action in terms of the big cities. That is something which we have no right to do.

It is argued that no one should be required to carry on an operation at a

loss. I join in that view, but I point out that in the case of a public utility it is almost Hornbook law that a public utility is the concern of everyone, and that the only time a public utility can be allowed to discontinue a branch of service upon which it is suffering a loss is if the operation seriously prejudices the whole financial picture of the utility. If we were to allow every public utility to discontinue service because it suffered a loss, we could not operate on a public utility basis, because many aspects of service would necessarily be discontinued. Yet if we allow the bill to stand as it is, that is exactly what we will be doing. I have very grave doubt that that is the fundamental intention of the Senate.

What we shall be doing, if we act in this drastic way, is to move too far, too fast. We are trying to help the railroads solve their commuter problems; but we shall be trying to help them, if we pass the bill as it is, by setting a standard which puts the public absolutely at the mercy of any railroad which can show a loss on any particular section of its line. That, I respectfully submit, is not and should not be our purpose. Certainly it is not in the national interest.

I do not believe that the adoption of the amendment will in any way seriously prejudice the bill. The amendment gives jurisdiction to the Interstate Commerce Commission, jurisdiction which it lacks under present law. It provides the Commission with a more flexible criterion than is provided in the bill, but a criterion, nevertheless, which gives the Commission power to save any road from serious, drastic financial injury because of the operation of an unprofitable commuter service.

I think the amendment gives the Commission the kind of authority which it ought to have; at the same time, it does not vest the Commission with life-and-death authority over commuter service based on a narrow criterion which is not based on the context of general public utility law, and is not found in other phases of Interstate Commerce Commission authority or regulation not justified by the public interest.

I refer to page 22 of the committee report, in which there is a complaint, as follows:

Without reciting individual cases the subcommittee is satisfied that State regulatory bodies all too often have been excessively conservative and unduly repressive in requiring the maintenance of uneconomic and unnecessary services and facilities. * * * In many such cases, State regulatory commissions have shown a definite lack of appreciation for the serious impact on a railroad's financial condition resulting from prolonged loss-producing operations.

I have read those words because I think they are all important in this discussion—"on a railroad's financial condition."

Those are the words, however, in the bill as presented to us.

"On a railroad's financial condition" is the basis which I am willing to accept; but on a net loss basis for a particular operation sought to be discontinued is not a basis which I or the people or the Senate ought to accept.

This is not a light matter. We are dealing with one of the fundamental and very basic problems involved in the railroading business. I am more than happy that we are now acting in the matter. I think the time has long since passed when we could do anything to meet the situation fairly and squarely. But I respectfully submit to my colleagues that meeting it fairly and squarely does not mean that we should go to such extremes under cover of doing something which is the right thing to do at this particular time as to give ourselves great cause for grief if we pass the bill.

Although, I repeat, we may be able to do something about this particular provision in conference, when the bill goes to the other body, still it is our bound and duty, when we see something wrong with a piece of proposed legislation, to put it in proper shape.

I submit to the Senator from Florida [Mr. SMATHERS], to whom I have appealed in the hope that he might be able to take this amendment to conference, that I think it truly perfects section 4, and may very well, if the motion to strike out the whole of section 4 is to be pressed, as I understand it is, result in saving this particular section which is of tremendous advantage to the railroad industry in terms of its really fundamental problems.

I had a colloquy with the Senator from Ohio [Mr. BRICKER], who is a distinguished lawyer, about this matter a while ago. I received the distinct impression from the colloquy that the Interstate Commerce Commission will not exercise authority because we are going into a very deep study of the whole transportation system, which was voted by the Rules Committee this morning. It is my understanding that he feels that the Commission is going to wait on that study before they act. But I do not see how we, as lawyers, can be satisfied with that.

Under the criterion which is set forth in the bill, if I were a lawyer representing a railroad, I would act as follows:

I would give notice of discontinuance and go before the Interstate Commerce Commission. I would accept even an adverse decision, if the Commission wanted to make it. I would then go to the court to have the decision reversed. I am confident that I could reverse the Commission upon this language, on the ground that the congressional purpose as specified in the express words of the law, were that any railroad showing a net loss for the operation of a particular section of the road should have the right to discontinue that section. No court will overturn a congressional purpose so clearly expressed, unless we express what is really our purpose accurately, and that is the aim of my amendment.

In summary, therefore, as the matter now stands, the bill is completely vulnerable to arbitrary construction; it is completely vulnerable to arbitrary use by the railroads. I do not believe that is in the public interest.

If the bill is amended in the way I have suggested in the amendment I have submitted, it will result in giving to the

Interstate Commerce Commission a balanced authority to deal with the situation, both in respect to losses and in respect to the public in the way of convenience and necessity.

My amendment is consistent with all the other regulatory powers given the Interstate Commerce Commission in respect to the abandonment of sections of railroads.

For these reasons, I hope my amendment will be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

Mr. SMATHERS. Mr. President, I hope the Senate will not support the amendment offered by the Senator from New York. I am in sympathy with the problem which the Senator from New York recognizes and is trying to meet by his amendment. Commuter trains in metropolitan areas are obviously operating at a great loss. Nevertheless, they render great service to many people. However, the commuter problem is a problem which, it was the opinion of the committee, should be referred to our study committee, because it is essentially a problem within the States; it is not an interstate problem.

If we should adopt the language that the able Senator from New York recommends, all it would mean would be that for the first time in history a Government agency would be saying to the owners of private business, "You will have to operate your business whether you can make a profit with it or not. You will have to run the business whether you take all the stockholders' money, or whether you have to take up your tracks or cars and sell them for scrap. Nevertheless, you must run the business."

I do not think we have come to such a point in our history. I do not think Senators would want to see that happen.

If ours were a nationalistic form of government, and if it were a fact that the system were a complete monopolistic operation, then I think the argument might have some persuasiveness. But the fact is that on these particular operations, it is the privately owned railroads who are losing money.

The testimony of witness after witness conclusively shows, over and over again, that very few people are patronizing the trains; yet the railroads cannot discontinue their operation. Because they have to continue to run the trains, we find that the class I railroads have sustained losses of \$726 million.

In view of the importance of the railroads to the country, if we wish them to continue in operation, certainly we should not require them to continue operations of this type, and certainly we should not have the Government require them to continue their service, regardless of whether they make a profit.

So we recognize the existence of the problem. We also recognize that the study subcommittee which has been appointed will, within 18 months, make recommendations regarding what should be done about the commuter problem.

Mr. JAVITS. Mr. President, will the Senator from Florida yield to me?

The PRESIDING OFFICER (Mr. LAUSCHE in the chair). Does the Senator from Florida yield to the Senator from New York?

Mr. SMATHERS. I yield.

Mr. JAVITS. From the argument of the Senator from Florida in opposition, do I correctly understand that he construes—and that the subcommittee construes, if the Senator from Florida is able to say that—that the words "net loss," as they appear on page 6 of the bill, in line 16, refer to a railroad's financial condition—and I am now using the words of the committee report—rather than to the net loss on the particular operation which is sought to be discontinued?

Mr. SMATHERS. We construe the words "net loss" to mean the loss from the particular operation the railroad is rendering.

But to go one step further, not only do we find there is a net loss on the basis of the particular specifics the Senator from New York has in mind, which relate to the general proposition, and not only do we find there is a net loss with respect to some of the specific trips the Senator from New York has in mind, but we find there is also a net loss in many instances with respect to the entire company which is operating the commuter service.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SMATHERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment submitted by the Senator from New York [Mr. JAVITS].

Mr. JAVITS. Mr. President, on this question, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were not ordered.

Mr. JAVITS. Mr. President, at this time I shall speak for only 1 additional minute; I shall do so for the benefit of Senators who were not present during the previous debate.

I believe it has now been made clear, by means of the response which has been made by the chairman of the subcommittee to my question, that the definition of the words "net loss", as they appear on page 6 of the bill, in line 16, is that they relate to the net loss on the particular operation or the particular section of a line which a carrier is seeking to discontinue.

Therefore, I submit that the Interstate Commerce Commission is given no flexibility whatsoever. The Interstate Commerce Commission is not subject to reversal in the courts if it fails as a matter of law to require the continued operation of a line as to which there is proof of a net loss. I say that is contrary to fundamental public policy and the public interest in areas which are served by lines which may sustain a net loss; and I also say that what is sought to be done

by the bill is far more than is necessary in fairness to the railroads. Certainly it is proper to look to the overall financial condition of the railroads, inasmuch as they are public utilities, rather than to a loss on a particular operation.

I believe this issue has been boiled down and pinpointed by the Senator from Florida to such an extent that it is clear that we would be providing relief and authority which we would have no business to provide in the national interest and in the interest of millions of the people of the country. If we provided for such relief and authority, I maintain that we would regret it, because it would not be reasonable to do so.

To give the Interstate Commerce Commission authority it does not have at the present time is in itself a mark of progress, because in that way we shall remove these decisions from the State or local scene, by providing that they shall be made on the national scene, where we have a right to assume there will be greater objectivity.

But if we wish to have greater objectivity, let us permit the Interstate Commerce Commission to have the power to exercise that responsibility by means of the criteria which are stated.

Therefore, I urge that my amendment, with these criteria be adopted, that is, considering the need for financial assistance, and also public convenience and necessity. Given the two criteria, the ICC will have an opportunity to make just decisions, in the public interest, and the railroads will have justice done to them and be given relief in their very acute situation.

Mr. President, I ask for a division on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

On a division, the amendment was rejected.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. RUSSELL. Mr. President, I send an amendment to the desk, which I ask to have stated.

The PRESIDING OFFICER. The amendment of the Senator from Georgia will be stated.

The LEGISLATIVE CLERK. It is proposed to strike out section 4, beginning on line 21, page 4, and to renumber the remaining sections accordingly.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 4, it is proposed to strike out beginning with line 21 on page 4 and ending with line 8 on page 7, as follows:

SEC. 4. The Interstate Commerce Act, as amended, is amended by inserting after section 13 thereof a new section 13a as follows:

"SEC. 13a. A carrier or carriers subject to this part, if their rights with respect to the discontinuance or change, in whole or in part, of the operation or service of any train or ferry engaged in the transportation of passengers or property in interstate, foreign, and intrastate commerce, or any of them, or of the operation or service of any station, depot or other facility where passengers or property are received for transportation in interstate, foreign and intrastate commerce, or any of them, are subject to any provision

of the constitution or statutes of any State or any regulation or order of (or are the subject of any proceeding pending before) any court or an administrative or regulatory agency of any State, may, but shall not be required to, file with the Commission, mail to the governor of each State in which such train, ferry, station, depot or other facility is operated, and post in every station, depot or other facility directly affected thereby, notice at least thirty days in advance of any such proposed discontinuance or change. The carrier or carriers filing such notice may discontinue or change any such operation or service pursuant to such notice except as otherwise ordered by the Commission pursuant to this section, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any court or State authority to the contrary notwithstanding. Upon the filing of such notice the Commission shall have authority during said thirty days' notice period, either upon complaint or upon its own initiative without complaint, to enter upon an investigation of the proposed discontinuance or change. Upon the institution of such investigation, the Commission, by order served upon the carrier or carriers affected thereby at least ten days prior to the day on which such discontinuance or change would otherwise become effective, may require such train, ferry, station, depot or other facility to be continued in operation or service, in whole or in part, pending hearing and decision in such investigation, but not for a longer period than four months beyond the date when such discontinuance or change would otherwise have become effective. If, after hearing in such investigation, whether concluded before or after such discontinuance or change has become effective, the Commission finds that the operation or service of such train, ferry, station, depot or other facility is required by public convenience and necessity and that such operation or service will not result in a net loss therefrom to the carrier or carriers and will not otherwise unduly burden interstate or foreign commerce, the Commission may by order require the continuance or restoration of operation or service of such train, ferry, station, depot or other facility, in whole or in part, for a period not to exceed one year from the date of such order. The provisions of this section shall not supersede the laws of any State or the orders or regulations of any administrative or regulatory body of any State applicable to such discontinuance or change unless notice as in this section provided is filed with the Commission. On the expiration of an order by the Commission after such investigation requiring the continuance or restoration of operation or service, the jurisdiction of any State as to such discontinuance or change shall not longer be superseded unless the procedure provided by this section shall again be invoked by the carrier or carriers."

Mr. RUSSELL. Mr. President, I think I am as keenly alive as to the importance of the railroad industry to our national economy and to the requirements of national defense as is any other Senator. I realize this industry is of vital importance to our civilization. I desire to assist the railroads in their difficulties in any way that I properly can, and am willing to support any reasonable proposition whereby the Federal Government may properly extend assistance to the railroad industry.

I do not, however, believe that the provisions of the pending bill, as found in section 4, are necessary to the salvation of the railroad industry. I do know that the provisions of section 4

of the bill are a tremendous blow to our dual form of Government and the rights of the several States. The section is a blow to local self-government and to the public interest of the smaller communities of the United States. This section is a direct and drastic blow to the authority of the State regulatory bodies, which are created, in most instances, by the constitutions of the several States.

Section 4 of the bill moves the local functions of government from the State capitals to the banks of the Potomac River, and is a far stride forward in the move to further centralize all the powers of government in a strong central government here in Washington.

This whole provision, as a casual reading of it will reveal, is in derogation of local self-government. It is an arrogant and contemptuous disregard of the very existence of local institutions of government that are created by the States to serve the people of the several States.

I hope every Senator who votes on the amendment will have taken care to read the provisions of section 4 of the bill. I desire to read from them briefly:

A carrier or carriers subject to this part, if their rights with respect to the discontinuance or change, in whole or in part, of the operation or service of any train or ferry engaged in the transportation of passengers or property in interstate, foreign, and intrastate commerce, or any of them, or of the operation or service of any station, depot, or other facility where passengers or property are received for transportation—

I eliminate some words—

are subject to any provision of the constitution or statutes of any State or any regulation or order of (or are the subject of any proceeding pending before) any court or an administrative or regulatory agency of any State, may, but shall not be required to, file with the Commission, mail to the Governor of each State in which such train, ferry, station, depot, or other facility is operated, and post in every station, depot, or other facility directly affected thereby, notice at least 30 days in advance of any such proposed discontinuance or change. The carrier or carriers filing such notice may discontinue or change any such operation or service pursuant to such notice except as otherwise ordered by the Commission—

That is the Interstate Commerce Commission—

pursuant to this section, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any court or State authority to the contrary notwithstanding.

I have never before seen a section in any bill presented to the Senate that more specifically proposes to wipe out sections of the constitutions of the States, or strike down State laws, including State regulatory bodies, and go into the courts of the States and take jurisdiction of matters pending there under State law and bring them here to Washington. I cannot conceive of any legislative proposal that makes a more forthright assault upon the right of local self-government and the rights of States than is conveyed by this section of the bill.

I repeat, officials in the Federal Government would not even have to write a letter to a governor or to a State commission, but could act in contemptuous disregard of the very existence of a State

commission. They would be able to take a matter away from the control of that local government, and bring it here to Washington, without even writing a letter to tell the State officials about it, if they wanted to, under this section of the bill.

State regulatory bodies are not perfect in all instances. I know that when application is made in my own State for the discontinuance of a railroad station in a small town, it may take a little time for the lawyers for the railroads to act, and it may take a little trouble, but they usually succeed in closing the station. But under this provision the people in small towns would even be denied their day in court. Take a town having 500 or 600 people who depend on a railroad for the delivery of fertilizer or farm machinery or other commodities essential to their way of life. How are they going to get the money to hire a lawyer to go all the way to Washington and contend with the railroads before the Interstate Commerce Commission? At least, in their own State, they can get in their cars and ride to the State capital. In almost any State they can do that in half a day. Even in the great State of Texas people can ride to the capital in half a day, or at least in a day. A citizen can have his day in court before the State commission and present whatever right he is claiming. He could not do that if we transferred all of the proceedings to Washington.

It would not only be an invasion of the rights of the States, Mr. President—it would not only be an assault on our dual form of Government—it would not only be in derogation of the whole concept of local self-government, but it would be a very grievous wrong perpetrated upon the people of these smaller communities, by refusing to permit them their day in court.

I know, Mr. President, we have gone a long way toward centralization of Government, but we should not completely reverse the concept we have heretofore held that the local public service bodies shall regulate intrastate commerce and that they shall have the right to say when a local station can or cannot be discontinued.

I have never seen anything that goes further than this proposal, which would simply wipe out constitutions in the States, wipe out laws of the States, and tell the local commissions, without even the writing of a letter or paying the courtesy of notifying them, what is to be done. That would be the result of bringing these matters to Washington for a determination by the Interstate Commerce Commission.

I do not think such a provision is necessary to the salvation of the railroads of this Nation, Mr. President. I can understand why the railroads might prefer to have all of these matters handled in the Interstate Commerce Commission, but in the long run the railroads usually have their way before most of the local State regulatory bodies, if they have a good and sufficient case.

This provision will almost have the effect of denying the people of the smaller communities due process of law. It would require those people to come to

Washington in the first instance to complain about the closing of a station on an intrastate railroad line.

As I say, that would be going very, very far. Mr. President, I hope the Senate will at least take notice of the significant departure and change from existing procedure by having a record vote on this issue; and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. SMATHERS. Mr. President, like any reasonably junior Senator, I feel some compunction and a great deal of hesitation about ever standing up to contest with or debate with one who is probably the Senate's greatest parliamentarian and undoubtedly one of the finest, if not the finest, constitutional lawyers in this body; a man who, so far as I know, has always been consistent in his advocacy of States' rights; and a man for whom, I must say, I have personally the highest respect and warmest affection. Naturally it grieves me to be competing with him on this occasion.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. RUSSELL. I wish to sincerely thank the Senator for his undeserved tribute. I have been around the Senate long enough to know such tribute usually precedes a good stout knock upon the head. His complimentary statement will enable me to bear that with equanimity.

I can assure the Senator that one of my chief regrets about the situation is that I find myself at variance with the distinguished Senator with respect to a provision of a bill identified with his name.

Mr. SMATHERS. I thank the able Senator. Of course, the Senator from Georgia is indeed flattering to me to even suggest I could knock him on the head, or that if I could I would. I could not; certainly if I could I would not.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. SMATHERS. I am happy to yield to the able Senator from North Dakota.

Mr. YOUNG. I think the bill now under consideration by the Senate in most respects is a very good bill. Most of the provisions of the bill are necessary to help the railroads. I plan to support the bill, but I want to associate myself with the remarks made by the Senator for Georgia [Mr. RUSSELL], for I believe the provision to which the Senator refers is objectionable, and that matter could well wait for consideration at some future time.

Mr. SMATHERS. I thank the able Senator. I hurriedly state to the rest of the Senators, before they commit themselves I hope they will at least listen to the other side for just a second. After all, as is always the case, there are two sides.

Perhaps the committee was in error. We do not profess for a moment to have all knowledge. We do not say we are the only ones who can draft any legislation. Certainly that is not the case. However, we have tried to draft good legislation.

I should like also to associate myself with the remarks of the able Senator about his high respect for States' rights. I think it has been clear in the short time I have served in the Senate that I have endeavored to hold up the banner of the States' rights philosophy wherever and whenever I could possibly do so. However, I think a couple of points ought to be made.

We should all remember that the Constitution of the United States, after all, is supreme. Despite the fact that we had a so-called war between the States, I think the people of the South recognize that the Constitution is supreme, and the Constitution has only one thing to say with respect to interstate commerce, which is that the Federal Government has the absolute authority over interstate commerce.

Then we come to consideration of "What do we mean by 'interstate commerce'?" Or "What is 'interstate commerce,' over which the Federal Government has authority?"

As we study the matter we find a long series of cases in which the courts have construed that whenever a certain amount of intrastate commerce has an adverse effect on interstate commerce the Federal Government has jurisdiction over even the intrastate commerce.

We go back to 1926, to study the Colorado case. We find that this very same question arose, and the Supreme Court of the United States said, "We are going to assist in the abandoning of a certain route solely within the boundaries of the State, because there is an adverse effect on interstate commerce." The Interstate Commerce Commission was given the right, which it has at this moment and which it has had for 32 years, to completely bring about an abandonment of an entire railroad, for that matter, within a State, and the facilities within the State. Why was that done? Because there was a bearing on interstate commerce, that was the ruling in the Colorado case.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. SMATHERS. I am happy to yield.

Mr. RUSSELL. Why is it necessary to write the language in this bill, if the authority has already been established in that case?

Mr. SMATHERS. I will get to that point. That seemed to me to be a question about which I was concerned at the time of consideration. We shall come to that question.

That is the law which is already on the books. It is not something which the Senator from Kansas [Mr. SCHOEPP], the Senator from Connecticut [Mr. PURTELL], the Senator from Ohio [Mr. LAUSCHE], the junior Senator from Florida, or anybody else tried to write. That is the law, which has been recognized.

We now come to the question of whether if we have a whole, we have a part of the whole. We find that if the Federal Government, represented by the Interstate Commerce Commission, has the right to bring about an abandonment of an intrastate line and even the facilities on that intrastate line, because of a bearing on interstate com-

merce, then it would be more intelligent, it would be more wise, and it would be better, insofar as the preserving of the line in the State is concerned, to give the Commission a lesser right to say, "You can discontinue a train over that particular route." If the Commission is able to discontinue the train it is possible the railroad will not have to ask for a complete abandonment of the whole line.

That is all we have attempted to do. We have attempted to fill in a little gap to say, "If you have authority to discontinue the train on this little line, perhaps you will not have to use the authority which you already have to bring about a total abandonment."

That is what we have done. We are charged with having violated States rights. We respectfully submit we do not believe we have. Certainly we did not intend to bring about a great violation of anybody's States rights.

That is the legal point. The practical point is this: We find that last year the class I railroads in America lost \$726 million, and they lost practically all of it from the uneconomic operation of certain trains. In the present situation the railroad management cannot discontinue a train, even though it is an interstate train—although we think it has the right to do so; but we have not attempted to argue that point—unless the discontinuance is approved by a local public utilities commission.

Someone comes forward with the argument, "All the State public utilities commissions are doing a good job. They grant 37 percent of the applications which are made for discontinuance of an uneconomic operation." But those figures overlook 2 or 3 things.

First, the carriers have lost many millions of dollars; obviously they are still compelled to continue a great many uneconomical operations, which will mean a loss of \$726 million this year. The loss last year was \$730 million.

The eastern railroads are in such condition that their presidents tell us that they are about to go under.

What happens in the case of the State public utilities commissions? We do not wish to treat them unkindly. We invited public utilities commissioners to attend our hearings. We asked all of them to come and testify. How many do Senators suppose came? There were two who came from the State of Florida, as a personal favor to me. Another who came was the national chairman, from the State of Iowa. That is all we heard from. That is how much interested they were in the preservation of States rights. They have become more interested since. I will tell Senators why.

What happens with respect to trains which the railroads wish to discontinue?

The Public Utilities Commission in Maryland does a good job. The Public Utilities Commission in Delaware does a good job. The same can be said for the Public Utilities Commissions of New York and Pennsylvania. Their record is pretty good.

Using the Pennsylvania Railroad as an illustration, it says, "We operate five or more trains between New York and Washington. We want to abandon some

of those trains, but we must have approval from the public utilities commissions."

What happens? The Public Utilities Commission of New York will approve the discontinuance of trains numbered 1, 6, and 12. The Public Utilities Commission of Pennsylvania will approve the discontinuance of trains numbered 2, 9, and 13. The Public Utilities Commission of Delaware will approve the discontinuance of trains numbered 16, 19, and 8. They are never the same trains; with the result that, while the record of the public utilities commissions is pretty good with respect to the number of applications they have granted, those trains are still operating. Why? Because the railroad cannot get the public utilities commissions to agree on the same trains. I do not suggest that there is any collusion, but I do suggest that it is coincidental. That is what happens in many instances, with the result that the same trains continue to operate.

Many witnesses appeared before us. One, in particular, testified that his railroad operated a train from New York to somewhere in New England. One afternoon the train broke down. The engine would not run. A crew was sent out to try to repair the engine so that the passengers could be carried to their destination. The crew could not repair it. This witness said, "Do you know what we did? We had a train with six cars in it. We hired one taxicab and took every one home."

One of the witnesses said, "We would be willing to buy cars for the passengers if we could have permission to discontinue the operation of uneconomic trains. The uneconomic operation is taking money away from us." No wonder they are broke. That is the problem we are up against.

We talk about States rights. We certainly should protect States rights. Legally there is no real basis for anyone concluding that this bill represents a great invasion of States rights; so far as practicalities are concerned, it is clear that some relief must be granted to the railroads in this particular area if we believe, first, that they are in trouble—and our subcommittee and the full committee so believe—and, second, they being in trouble, if we believe we should try to help them.

So I hope the Senate, despite the very persuasive argument of my dear friend, whom I respect as much as any other man I know, will nevertheless follow the committee's position on this particular subject and reject the amendment.

Mr. RUSSELL. Mr. President, I am far from an expert in the field of transportation. It is one of the most highly complex subjects on which we legislate. I should say that tax legislation, rate structures, and transportation questions are never completely within the grasp of any one person.

I think the argument of the distinguished Senator from Florida is rather tenuous from the standpoint of plain commonsense. He says that because there have been some difficulties with certain interstate trains, it is necessary for the Congress to legislate to give the

Interstate Commerce Commission power over intrastate trains. It is suggested that such power be given not only to the Interstate Commerce Commission, but in fact given to the railroads, unless the Commission takes affirmative action to set aside or put an estoppel upon what the railroads seek to do.

I freely confess that the Congress has the right to legislate to its heart's content in the field of interstate commerce. If the bill provided only that the Interstate Commerce Commission should have control over trains which operate in two or more States, I would not raise my voice against such a provision in the bill.

Mr. SMATHERS. Mr. President, will the Senator yield at that point?

Mr. RUSSELL. I yield.

Mr. SMATHERS. I dislike very much to interrupt. In recognition of the persuasiveness and power of the distinguished Senator from Georgia, I have checked with the members of our subcommittee and some other members of the full committee, and I can say to the Senator that we would be perfectly agreeable, if the Senator from Georgia would accept the amendment, to offer an amendment which would state specifically that, with respect to any train which operates within a State, whose origin and destination are within the State—that is, any train with intrastate characteristics—together with the facilities used by the train, shall be completely under the authority of the State public utilities commission, and shall not be in any way affected by the language of this particular proposal, to which the Senator from Georgia objects.

Mr. RUSSELL. That would go a long way toward removing my objection. I do not like a congressional declaration that all interstate trains are a burden on interstate commerce, but certainly the Congress has the constitutional right so to declare, if we wish to do so.

However, I do not believe that we have the right to give a railroad company authority to abandon a train which operates wholly intrastate.

What would be the effect of your proposal on the stations? Would it deny the right of the State public service commission to pass upon the closing of stations, depots, or other facilities—however the provision is spelled out in the bill—which are served by intrastate services?

Mr. SMATHERS. This amendment would provide that any train having its origin and destination in the same State, together with the facilities—specifically the terminals—serving that particular train, should be completely under the jurisdiction of the State regulatory body.

Mr. RUSSELL. The language applies to the train.

Mr. SMATHERS. It applies also to the facilities which serve the train.

Mr. RUSSELL. Facilities which are wholly intrastate in character?

Mr. SMATHERS. That is correct.

Mr. RUSSELL. I shall not debate the question further if we can obtain recognition of the right of the States to control matters wholly within their borders. I do not believe it is necessary that the railroads have the right to discontinue trains. I yield to the Interstate Com-

merce Commission in that field. When it comes to closing down a station in a small town which is served by a local freight train, I do not believe it is necessary to bring that question to Washington for decision. I am delighted that the Senator from Florida is willing to leave that question to the State regulatory bodies.

Mr. KUCHEL. Mr. President, will the Senator yield?

Mr. RUSSELL. I yield.

Mr. KUCHEL. I should like to ask a question of either the Senator from Georgia or the Senator from Florida with respect to some technical and legal points. For example, where there are 2 contiguous States, and a railroad train originating in 1 of them, State A, makes several stops in State A, and then crosses into State B, where it makes several stops also, what is the understanding of the Senator from Georgia with respect to the jurisdiction over that train by either the State utility commissions of State A and State B, on the one hand, and of the Interstate Commerce Commission on the other hand?

Mr. RUSSELL. I would say that, as to the train, jurisdiction would be vested in the Interstate Commerce Commission.

Mr. KUCHEL. Under the law today, where is that jurisdiction vested?

Mr. RUSSELL. I am sorry, but I cannot answer that question. If the Senator will permit me to yield to the Senator from North Dakota for a question, I shall yield the floor.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. RUSSELL. I yield.

Mr. YOUNG. The amendment of the Senator from Florida to the amendment offered by the Senator from Georgia meets with my approval, and I believe would remove my objection.

Mr. RUSSELL. I thank the Senator. I appreciate his statement. He will always be found on the side of the little fellow.

Mr. YOUNG. I thank the Senator.

Mr. KUCHEL. Mr. President, will the Senator from Florida yield for a question? I should like to ask a question or two of the Senator from Florida, if he will yield for that purpose.

Mr. SMATHERS. I yield.

Mr. KUCHEL. Under the present law, when a railroad operates in 2 contiguous States, if a train originates in 1 of the States and stops in the State, and then crosses the State line and stops in the other State, what jurisdiction, under the present law, does the Interstate Commerce Commission exercise over that operation?

Mr. SMATHERS. It exercises all jurisdiction with respect to the rates, and things of that character. With respect to a discontinuance, at the moment the Commission does not exercise any jurisdiction with respect to the discontinuance of a specific train, although they have complete authority with respect to bringing about a total abandonment of the whole line or any part of it.

Mr. KUCHEL. Does the jurisdiction over how and when that railroad shall run its trains in State A and State B rest in the discretion of the State public

utilities commissions in State A and State B?

Mr. SMATHERS. Only with respect to discontinuance; yes. The answer is "Yes."

Mr. KUCHEL. Only with respect to discontinuance?

Mr. SMATHERS. Only with respect to discontinuance.

Mr. KUCHEL. In what respect does the Interstate Commerce Commission, under the present law, have any jurisdiction over that railroad with respect to that type of operation?

Mr. SMATHERS. With respect to rates, and with respect to total abandonment.

Mr. KUCHEL. The Senator has suggested an amendment to meet the objection of the Senator from Georgia [Mr. RUSSELL]. How would his latest suggestion affect the example I have pointed out to him?

Mr. SMATHERS. If a train originated within a State and then ran across that State to the other side of the State and ended there, within that State, and never got outside that State, then with respect to discontinuance, the State public utility commission would have sole and exclusive jurisdiction.

Mr. KUCHEL. With respect to the example I cited earlier, where a railroad originated a train in State A and that train crossed State A and went into State B, what would be the effect of the proposal of the able Senator from Florida as to jurisdiction?

Mr. SMATHERS. If it crossed the State line, then of course the Interstate Commerce Commission would have the authority not only to authorize the total abandonment, but to bring about a discontinuance.

Mr. KUCHEL. Therefore, to that extent the Senator's new proposal would eliminate State jurisdiction over any railroad operating within its borders, if a particular operation crossed a State line?

Mr. SMATHERS. If its characteristic is interstate commerce. Of course, most lines will drop trains at the State line. However, if the train runs from one State into another State, and thus crosses the State line, that train would be properly construed to be a train operating in interstate commerce, and therefore would come under the jurisdiction of the Interstate Commerce Commission.

Mr. KUCHEL. The Senator's amendment would then preclude further control by the State public utilities commission; is that correct?

Mr. SMATHERS. That is right. They do not have any jurisdiction now.

Mr. KUCHEL. I am referring to the problem raised by the Senator from Georgia with respect to discontinuance.

Mr. SMATHERS. It would preclude the State having any further authority, with respect to discontinuing an interstate train.

Mr. KUCHEL. To that extent it would pre-empt the field and lodge discretion in the Interstate Commerce Commission with respect to discontinuance of any train. Is that correct?

Mr. SMATHERS. In interstate commerce; yes.

Mr. KUCHEL. If it crossed a State line.

Mr. SMATHERS. Because that train is operating in interstate commerce. We give authority to the Interstate Commerce Commission only over interstate commerce trains. We more clearly define that the public utilities commission has authority over completely intrastate trains and facilities.

Mr. KUCHEL. Yet, up to 1958, Congress has not seen fit to preempt the field, but, to the contrary, until 1958 Congress has recognized that each State, through its utilities commission, should sit in judgment on what services should be performed. Is that correct?

Mr. SMATHERS. This is the first time that Congress has become concerned about the \$26 million deficit. It is the first time that Congress has begun to wonder what is going to happen to the railroads, and this is the first time that we thought perhaps we had better start doing something about the problem. That is why we are considering it now.

Mr. KUCHEL. I do not believe we can get along without the railroads. I believe that we need to do something to help the railroads. However, I have a difficult problem in my own mind on this matter, and that problem has been pretty well indicated on the floor by what the able Senator from Georgia has said. That is why I wished to develop some guide lines under the situation the Senator from Florida contemplates.

Mr. SMATHERS. I thank the Senator. I appreciate his asking me questions. I would merely add that the amendment we have offered to the amendment of the Senator from Georgia more precisely divides the authority between the Interstate Commerce Commission and the State utility commissions, putting each in authority where it more properly belongs.

Mr. BRIDGES. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. BRIDGES. Does not the compromise amendment, which the Senator from Florida has discussed with the Senator from Georgia, almost completely eliminate the problem of being able to discontinue commuter trains, which are one of the chief financial burdens of the railroads?

Mr. SMATHERS. With respect to commuter trains, where the commuter trains operate wholly within a State, it of course does, yes. The answer is "Yes."

Mr. BRIDGES. So far as relief for the railroads is concerned, the amendment would do only a partial job.

Mr. SMATHERS. It is not as strong, I will say to the Senator. It is not what we started out to do. It is something which, under a practical situation, we had to do in view of the fact that there are a number of Senators who are persuaded by the theory of States rights.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. RUSSELL. I wish the Senator would make a statement which would outline wherein the language he proposes would leave the jurisdiction of the

State regulatory bodies. I think I understand the statement about the operation of trains. While Congress unquestionably has the constitutional right to legislate concerning trains which cross State lines, the wisdom of doing so may be another question. But we have the right and power to legislate.

I am not at all clear about the question of the closing of stations. Would the amendment which has been offered affect the right of the local regulatory bodies and deny them jurisdiction which they have heretofore exercised?

Mr. SMATHERS. The amendment would give State public utility commissions jurisdiction over not only intrastate trains, but also facilities. We have mentioned stations. Stations would be under the jurisdiction of the State public utility commissions wherever the stations are serving intrastate trains.

Mr. RUSSELL. Of course. As I recall, there was a case in Kansas which held that the feeding of wheat to a man's chickens was a burden on interstate commerce. We have gone quite a long way in the development of the law.

I am quite clear, I think, about the jurisdiction of State regulatory bodies over trains, but I am not clear as to their control over the facilities.

Mr. SMATHERS. As a practical matter. I do not think the Senator from Georgia need worry about that. If a terminal is used by both interstate and intrastate trains, those particular operations are usually the ones which are quite profitable; for example, the terminals in Atlanta and Savannah, Ga.

Mr. RUSSELL. I am not concerned about them; they get enough business to keep going. I am concerned about the stations in rural communities.

Mr. SMATHERS. Stations located on major lines, which operate through the big cities, are ordinarily used by interstate trains. Terminals or station facilities not ordinarily used by interstate trains, and which are located in small areas or towns, which is what the Senator from Georgia is concerned about, would, under this language, be completely under the jurisdiction of the State regulatory agencies.

Mr. RUSSELL. I thank the Senator.

Mr. BRIDGES. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. BRIDGES. I want to get this clear. Trains or service operated wholly within a State—trains originating and terminating within a State—would be under the jurisdiction of that State regulatory body. That would include most of the commuting trains. If they were exempted from the Senator's original amendment, and the railroads were forced to continue their local commuter operation, but were free to proceed to discontinue service in other places, it would mean that areas like the small State of New Hampshire, and similar places, would bear the burden of the commuting service which operates into the big cities, like Boston, New York, and Chicago. Those cities would occupy a preeminent position.

Mr. SMATHERS. The Interstate Commerce Commission would still have

the authority to recommend the total abandonment of commuter service.

Mr. BRIDGES. I understand that.

Mr. SMATHERS. Commuter service, however, is essentially an intrastate operation. Commuter trains operate around big cities, such as Boston, New York, Philadelphia, and Chicago. Such service is almost exclusively a local operation.

Earlier today we spoke of the condition in the State of the able junior Senator from New York. That is a matter which needs considerable study, because we do not think the Committee on Interstate and Foreign Commerce actually has particular jurisdiction over that situation. Yet that operation is so much a part of interstate commerce that somewhere along the line Congress will have to face up to the problem and determine what shall be done about it.

Mr. REVERCOMB. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. REVERCOMB. Suppose a railroad had a line running through several States, and that a branch line within a State connected with the interstate line. Suppose that on the branch line and on the main line a train was operated which began and terminated its run within the State. Do I correctly understand that such a train could be discontinued only with the approval of the State commission?

Mr. SMATHERS. That is correct; that is because the train originates and terminates within a State.

Mr. REVERCOMB. The language applies to the train, irrespective of the fact that it runs on tracks which are a part of an interstate line.

Mr. SMATHERS. That is our understanding.

Mr. CARROLL. Mr. President, will the Senator yield?

Mr. SMATHERS. I yield.

Mr. CARROLL. I came to the Chamber late. When I arrived, the Senator from Florida was talking about a Colorado case, which I believe had to do with the complete abandonment of a railroad line.

Mr. SMATHERS. In that case, there was complete abandonment of an intrastate segment of a railroad which ran interstate. The Supreme Court, in a case decided in 1926, held that the Interstate Commerce Commission could order or could permit the complete abandonment of what amounted to an intrastate branch, because it was connected with and was considered to be a part of interstate railroad operations.

Mr. CARROLL. It was a burden on interstate commerce.

The New York, New Haven & Hartford Railroad begins in Connecticut and runs over many leased lines into Massachusetts. The leased lines operate intrastate. Suppose the New Haven Railroad desired to abandon its Boston-Providence line because it was uneconomical, but sought to maintain its leased lines because they were economical. Is it the Senator's understanding that if there were to be a complete abandonment, the ICC would have jurisdiction?

Mr. SMATHERS. Yes; they have jurisdiction now.

Mr. CARROLL. That would be for the complete abandonment of the New Haven. But if there were one segment which they sought to abandon, the ICC would not have jurisdiction today.

Mr. SMATHERS. That is correct. If a train originates within a State, whether it be Connecticut or Massachusetts, and ends within the State, without crossing a State line, that particular train could be discontinued only with the approval of the State regulatory agency, under the amendment.

Mr. CARROLL. Yes; under the amendment. But I think the Senator from New Hampshire asked the question, If the New Haven decided to abandon its Boston-Providence line, under existing law does the Interstate Commerce Commission have jurisdiction? If the amendment shall be agreed to, the bill may confer jurisdiction on the Interstate Commerce Commission.

Mr. SMATHERS. No. At present the Interstate Commerce Commission has the authority to authorize abandonment, even in interstate commerce. The difference is between the abandonment of train service as a whole, including the tracks and equipment, and the discontinuance of the operation of a train. Under the present law, the Interstate Commerce Commission now has the authority to permit the total abandonment of the Boston-Providence line. But under the present law the Commission cannot permit or authorize the discontinuance of one train, which may run every day up and down that particular track.

Mr. CARROLL. I appreciate the Senator's comment. He has made the matter very clear in the Record. The Interstate Commerce Commission has the right to authorize the abandonment of a railroad, but it cannot authorize the discontinuance of certain trains.

Mr. SMATHERS. That is correct.

Mr. CARROLL. What is suggested now by the Senator from Florida will permit the Interstate Commerce Commission to authorize the discontinuance—

Mr. SMATHERS. It will allow the Interstate Commerce Commission to authorize the discontinuance of interstate trains.

Mr. MARTIN of Pennsylvania. Mr. President, will the Senator from Florida yield to me?

The PRESIDING OFFICER (Mr. CHURCH in the chair). Does the Senator from Florida yield to the Senator from Pennsylvania?

Mr. SMATHERS. I am happy to yield.

Mr. MARTIN of Pennsylvania. I should like to ask a question: According to the newspapers, recently the Baltimore & Ohio Railroad abandoned its passenger service between Baltimore and New York. How was that accomplished?

Mr. SMATHERS. It was accomplished by obtaining permission from the regulatory bodies of each of the States through which the Baltimore & Ohio Railroad has operated in rendering that service.

Mr. MARTIN of Pennsylvania. That was my understanding, but I wished to be certain about the matter.

Mr. WILLIAMS. Mr. President, will the Senator from Florida yield to me?

Mr. SMATHERS. I yield.

Mr. WILLIAMS. Mr. President, it is my understanding that the Senator from Florida is attempting to work out a compromise version of the amendment of the Senator from Georgia [Mr. RUSSELL].

In the meantime, in order that those Senators may have time to perfect the amendment, will the Senator from Florida agree that the amendment may be temporarily laid aside, and that the Senate may proceed to the consideration of an amendment which I have previously discussed, and which I think will be acceptable to the committee?

I have already discussed this matter with the Senator from Georgia [Mr. RUSSELL], and I believe he has no objection.

Mr. SMATHERS. Very well; we shall be happy to have that course followed, Mr. President.

Mr. WILLIAMS. Then, Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside, and that the Senate proceed to the consideration of the amendment which I have sent to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I have discussed this matter with the Senator from Florida.

I have noticed that section 7 would amend the Internal Revenue Code. Question has been raised—and on yesterday we discussed the matter at length—as to the advisability of establishing a precedent by having the Senate act, in the course of the passage of a Senate bill, on amendments to the Internal Revenue Code.

Therefore, I have submitted, and sent to the desk, an amendment which provides that section 7 of the bill be stricken out, without prejudice.

It is my understanding that perhaps the members of the committee subsequently will offer this section as an amendment to a bill which will be passed by the House of Representatives and, in due course, will be referred to the Senate Finance Committee, in the course of the orderly legislative procedure.

Therefore, Mr. President, I ask that the amendment which I have sent to the desk be stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. It is proposed to strike out all of section 7, without prejudice, beginning on page 12, in line 17, through page 17, in line 14, and to renumber the following sections accordingly.

Mr. WILLIAMS. Mr. President, it is my understanding that although the chairman of the subcommittee feels very strongly about this section, in the interest of orderly legislative procedure he is willing to accept the amendment.

Mr. SMATHERS. Mr. President, I would say "yes."

I believe the committee is entitled to make a brief statement for the RECORD; and it has authorized me to make the following statement: This section has to do with the establishment of a construction reserve. The reason why we shall accept the amendment of the able Senator from Delaware is that both he and the distinguished Chairman of the Finance Committee, the senior Senator from Virginia [Mr. BYRD] believe that the committee has not proceeded in exactly the proper way in bringing before this body a proposal which, in essence, has to do with the tax program of the railroads. Or, for that matter, they do not believe that the Committee on Interstate and Foreign Commerce should report a measure which deals with a tax program. Instead, they believe that such proposals should be handled by the Finance Committee.

On the other hand, there is some authority which we believe justified the procedure our committee followed. We do have some opinions from the Parliamentarian; and we do not wish to yield on that particular point.

We understand that the other body has raised some objection to our reporting a provision with respect to setting aside such a construction reserve, not only for the railroads, but also for the motor carriers and the other common carriers. We understand that the other body did not wish to go on record as saying that it disapproves the provision; but we understand that the other body did not like the procedure which has been followed in this connection. Apparently the Ways and Means Committee of the House of Representatives wished to consider the provision first.

So at about 10 o'clock this morning it became obvious to us that even if the Senate passed the bill with the inclusion of the construction-reserve provision, it would run into a dead end in the other body.

Therefore, in the interest of saving time, and in order to quiet the anxiety and concern of some of our very distinguished colleagues, we are willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

Mr. WILLIAMS. Mr. President, first, I wish to thank the Senator from Florida.

I assure him that I have offered the amendment without prejudice, because I am very much in favor of the principles of the pending bill. I think such legislation is long overdue, in order to recognize the plight of the railroads.

But I did feel—and I believe, as he has pointed out, that he recognizes my position—that if some legislation of this type is to be enacted, the Senate should follow the orderly legislative procedure, and should have such a provision considered by the appropriate committee in connection with an appropriate bill which had previously been passed by the other body.

Mr. LAUSCHE. Mr. President, will the Senator from Delaware yield to me?

Mr. WILLIAMS. I yield.

Mr. LAUSCHE. During the debate today there was some indication that the

entire committee concurred in the proposal that the various modes of transportation should be permitted to establish construction reserves.

I have dissented from the committee's report. Attached to the committee's report will be found my dissenting views; they appear beginning on page 27. In those views I take the following position:

CONSTRUCTION RESERVE FUNDS

I do not join in the recommendation that the rail, air, and barge, and truck carriers, should be permitted to establish a construction reserve fund to be exempt from income-tax assessments until such time, not to exceed 5 years, when the fund is invested in the acquisition of capital equipment. I oppose the adoption of this new method of deferred taxation in the isolated method proposed. If the establishment by business and industry of construction reserve funds, with the right to defer payment of income taxes until the time, not to exceed 5 years, such funds are invested in capital equipment, is economically sound, then the right ought to be made available, not only to the common carriers, consisting of the truckers, the railroads, the airlines, and the barge carriers, but also to all other types of business and industry.

In addition, Mr. President, my view was that the problem ought not be approached in an isolated way, but should be approached through a centralized attack, which could be done only through the standing Senate committee which has jurisdiction of this general subject.

Mr. WILLIAMS. I thank the Senator from Ohio.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

The amendment was agreed to.

Mr. BRIDGES. Mr. President, I wish to compliment the distinguished chairman of the subcommittee, the junior Senator from Florida [Mr. SMATHERS], and his associates on the subcommittee, on both the members of the majority and minority, for the job they have done.

They have recognized a problem which is basic, namely, to keep the railroads running, not only in time of peace, but also as an absolute necessity in time of war or other great emergency.

New Hampshire is a small State which has one major railroad. There is other railroad service, but the State is served principally by only one railroad. Like all other railroads in the East, it is sick. It needs the financial help which the bill will provide. Without it, the Boston and Maine Railroad, to which I refer, may have major difficulties.

It is true, of course, that the nation's railroads no longer have a monopoly in the transportation field. New Hampshire and all the rest of the New England States are fortunate to have truck and air transportation service also. But these services in themselves are not enough. For a great many years to come, the railroads will play an important part in the economic life of our Nation.

Mr. BRICKER. Mr. President, will the Senator from New Hampshire yield for a question?

Mr. BRIDGES. Certainly.

Mr. BRICKER. Does the Senator from New Hampshire know that the rec-

ord shows that the representative of one of the railroads which operates in New Hampshire testified that it was necessary to keep its passenger trains running regularly in order to provide service for students at holiday times when there is snowfall?

Mr. BRIDGES. No; I did not realize that there had been such testimony.

Mr. BRICKER. The testimony was that the students use the railroads when there is snowfall; but when there is no snowfall, the students use the airlines or the highways. In other words, the testimony was that the railroads have to maintain the service, because when there is snow the students use the railroads. When it does not snow, they use the airlines or the highways. So the railroads have to keep the trains running, because the Commission orders them to be kept running as a reserve against the time when there is snow and when the students are traveling during holidays.

Mr. BRIDGES. Mr. President, I think the committee has done an excellent job, one that had to be done to forestall the further deterioration of our Nation's railroads, a problem which has been discussed here today, and which most thoughtful people in the country understand.

One of the biggest problems is commuter service, which the railroads are unable to operate profitably. The Senator from Ohio has referred to that briefly.

This is not condemning the railroads as a whole or the Boston and Maine Railroad as one line. The Boston and Maine has a very energetic and able president, Mr. Patrick McGinnis, who has worked diligently to solve these problems. Obviously the solution is to be found, if indeed there is a solution, outside of subsidies, which I would prefer not to see.

Sections 3 and 4, which have been discussed here, give me some concern. I have received information from the New Hampshire Public Utilities Commission, of which I served as a member for 5 years, that they are opposed to the inclusion of these sections. I have had a good deal of correspondence on it both for and against.

What bothers me is the compromise amendment which is being discussed as a result of the objection of the senior Senator from Georgia and the contributions of other Senators. One of the major problems is commuter service in the big cities. Of course, when we force the railroads to continue commuter service and give them the privilege of discontinuing other services, it means that some of the small sections of the country will have to bear the burden, while the big cities will get the benefits. I am not sure I am for the compromise, by any means, although I think it is being worked on with the best of intentions.

Mr. BRICKER. Mr. President, will the Senator yield?

Mr. BRIDGES. I yield.

Mr. BRICKER. The Senator from New Hampshire agrees with the Senator from Ohio, then, that commuter service is something that has to be worked out at the local level?

Mr. BRIDGES. I believe that people and the cities served must help meet that problem.

Mr. BRICKER. If the railroads are permitted to charge the shippers of the country so as to make up the loss of maintaining commuter service, the benefits will accrue only to those areas that get the benefit of commuter service.

Mr. BRIDGES. I think some way must be found to work out the commuter service problem. I do not think those who ship freight or who travel long distances should be called upon to bear the burden. Neither do I think the railroads should or can be forced indefinitely to carry that loss.

Mr. BRICKER. Of the approximately \$700 million loss in passenger business last year, a great deal of it came from the commuter service.

Mr. BRIDGES. I am not entirely convinced the pending legislation will put the railroad industry back on the track, but I know it will make a substantial contribution in that direction. I know a great many of our railroads are sick. I know they need assistance. I know it is for the good of this Nation that they be kept running, not only in peacetime, but in time of emergency or war, when they are absolutely essential. We cannot let them deteriorate to the point where the railroad service of the country will be no more.

Mr. COTTON. Mr. President, will the Senator yield?

Mr. BRIDGES. I yield.

Mr. COTTON. I should like to say, as a colleague of the distinguished senior Senator from New Hampshire, that I am much interested in his comments. As a member, not of the subcommittee, but of the full Committee on Interstate and Foreign Commerce, I have followed this proposed legislation most carefully. I feel exactly as the senior Senator from New Hampshire feels about the needs of our State and the necessity for protecting, so far as we can, the needs of the rural sections with regard to mail service and general service. I have felt, and the feeling has been strengthened by advice from the professional staff of our committee, that sections 3 and 4 in their original form as they came to the Senate would not have had any serious effect upon our State. There is a natural apprehension on the part of the public utilities commission of our State, which I understand, and which I am taking into consideration, but which I think was not entirely warranted as to the provisions in the original form. I doubt if either of those sections seriously impaired the authority of our State commission.

I share with my senior colleague his apprehensions about the possibilities of a subsidy. I confess I am not sure exactly what it would do. I commend the Senator for raising this question. I think it should be considered most carefully, because it would be unconscionable to take away protection given our rural sections and regular service in favor of commuter service, as the Senator has so well stated.

I desire to associate myself with his expressions at this time, and shall follow with some care a further explanation of the proposed subsidy.

Mr. BRIDGES. I thank the Senator. I agree with my colleague. His remarks give extension to my own thoughts in the matter.

We in New Hampshire have an excellent public utilities commission. Its members are able men and have done a good job. I think if all State commissions were as efficient, there would not be so much trouble in the transportation field.

I want to be sure I know where we are going. I thought I knew where we were going, but with the compromise amendment before the Senate, I am not sure we will not complicate the situation, rather than help it.

I hope we may have consideration of the question by other members of the committee who had this matter under study. It seems to me the commuter question is one of the big problems, and if steps are taken to cure that problem, by its very nature a greater burden will be placed on the shorter lines, and lines serving rural sections.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. BRIDGES. I yield.

Mr. PASTORE. I assume the Senator from New Hampshire is opposed to section 4 as it was reported by the committee. Is that correct?

Mr. BRIDGES. No, but I wonder if we will not complicate it more by this compromise amendment.

Mr. PASTORE. The reason why I asked the question is that I have a sense of apprehension as to how far we are actually going with relation to the discontinuance of trains and stations and with relation to interstate and intrastate regulation. Preliminarily to asking a question or two, inasmuch as the distinguished Senator from Colorado took occasion to mention Providence, R. I., and how the proposal would affect Rhode Island, I feel compelled to complete the record. I have in my hand a letter dated June 3, 1958. It is addressed to me by Mr. Thomas A. Kennelly, administrator of public utilities of the State of Rhode Island. The letter reads as follows:

STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS,
DEPARTMENT OF BUSINESS REGULATION,
OFFICE OF PUBLIC UTILITY ADMINISTRATOR,
Providence, R. I., June 3, 1958.
Senator JOHN O. PASTORE,
United States Senate,
Washington, D. C.

DEAR SENATOR PASTORE: There is presently pending before the honorable Senate of the United States, a bill, S. 3778, which, as you are aware, was drafted and introduced to provide a measure of relief to the railroad industry. I realize that you are familiar with the provisions of this bill and the reasons which prompted its introduction. I am taking this means, however, of respectfully directing your attention to certain provisions of this bill contained in sections 3 and 4 thereof which, if they became law, would have the effect of rescinding all State authority and regulation over intrastate railroad rates for both passenger and freight

operations. In lieu thereof, this bill would empower the Interstate Commerce Commission with original jurisdiction over intrastate passenger service including train, ferry, station, depot, or other facilities notwithstanding the status or pendency of any litigation proceeding before any State commission.

The members of this division who have dealt with railroad problems recognize the fact that the railroads of this Nation are presently facing a serious financial crisis; and this is particularly true in the case of the New Haven Railroad. I do not believe, however, that the present financial condition of the New Haven Railroad, is due to any laxity of State regulation by the public utilities division of this State. In practically every instance this division has permitted the railroad to effect economies such as the discontinuation of trains, the raising of intrastate rail passenger fares and freight tariffs, and the elimination of both passenger and freight stations where it is evident that the public did not require their continued use. It is my belief that the loss of passenger traffic to the New Haven Railroad is due primarily to the greater use of the private automobile, and to the construction of superhighways for the use of the private automobile; and it seems evident that the New Haven Railroad, together with all other railroads, have certain embedded operational costs which are underlying factors in the railroads not being able to reduce expenses.

To my way of thinking, the provisions of sections 3 and 4 of S. 3778, which provide for placing all regulation in the hands of the Interstate Commerce Commission and wresting it away from State regulatory authority, will not increase the railroads' revenue nor will it tend to decrease the railroads' expenses.

Accordingly, as the head of the State division that is charged with regulation of the railroad within this State, I feel that it is my obligation to bring these facts to your attention for your careful consideration in order that the rights of States to regulate the intrastate phases of railroad activity will not be sacrificed needlessly under the guise of strengthening the railroad industry.

Very truly yours,

THOMAS A. KENNELLY,
Administrator.

I should like to ask a question of the distinguished Senator from New Hampshire [Mr. BRIDGES], and I also ask for the attention of the distinguished Senator from Florida [Mr. SMATHERS]. As I understand the present law, without regard to the bill reported, and without regard to the amendment offered by the distinguished Senator from Georgia, at the present time a complete abandonment of any interstate railroad can be effected by the Interstate Commerce Commission. However, if there is on that same line a discontinuance of one train, 2 trains, or a half dozen trains—or of all the trains—with the exception of 1 train there is a jurisdiction which today lies within the State authority.

Under the bill as reported by the committee with respect to intrastate and interstate authority, if the intrastate operation is connected in any way or fashion with the interstate operation all the jurisdiction would be preempted by the Interstate Commerce Commission. Under the amendment proposed to the amendment offered by the Senator from Georgia, insofar as a completely and exclusively intrastate operation is concerned, the jurisdiction would remain with the State authority.

Mr. SMATHERS. The Senator is correct.

Mr. PASTORE. Insofar as the interstate operation in any shape or form is concerned, all of the authority on the discontinuance of the line or the discontinuance of even one train would pass from the State authority to the Federal authority. Am I correct in that understanding?

Mr. SMATHERS. The Senator is correct.

Mr. PASTORE. The justification for this, on the part of the able Senator, is the fact that the railroads have suffered such a tremendous loss over past years, and unless we give them authority to discontinue schedules there will have to be more subsidies on the part of the Federal Government?

Mr. SMATHERS. The Senator is correct.

Mr. BRIDGES. Or complete abandonment.

Mr. PASTORE. Or complete abandonment of railroads?

Mr. SMATHERS. Or complete abandonment.

Mr. CARROLL. Mr. President, will the Senator yield?

Mr. BRIDGES. I yield.

Mr. CARROLL. I raise a question for the distinguished Senator, because it occurs to me that the Boston to Providence line is a lessor line, and the New Haven Railroad is a lessee line. The New Haven travels from Boston to Providence and Providence to Boston. That is pretty much an interstate line in a sense, the Boston to Providence line.

Suppose the New Haven Railroad should say, "It is uneconomical for us to use the line from Boston to Providence. We can go another way. This operation is uneconomic." Would the bill give the full jurisdiction to the ICC for a discontinuance of perhaps a half dozen trains, or one train?

I think it is clear in the record that the ICC has the jurisdiction with respect to the right to abandon. That is the reason I raise this question. I do not know much about eastern railroads, except that I serve on an ad hoc subcommittee looking into the Boston, Providence, New Haven situation.

Mr. PASTORE. Mr. President, will the Senator yield to me so that I may make an observation, and may I again ask the attention of the distinguished Senator from Florida [Mr. SMATHERS]?

Mr. BRIDGES. I yield.

Mr. PASTORE. With relation to the Boston to Providence line, I understand the law today to be that the Interstate Commerce Commission could discontinue the line completely if it found the line to be an unprofitable operation. However, if there were a question of discontinuing 1, 2, or a half-dozen trains, the jurisdiction would be in both public utilities commissioners of the State of Massachusetts and the State of Rhode Island; is that correct?

Mr. SMATHERS. The Senator is correct.

Mr. CARROLL. Does the bill change the existing jurisdiction in any way?

Mr. PASTORE. Yes. The discontinuance of a train would become a Fed-

eral jurisdictional matter, rather than a matter for the public utilities administrators of Massachusetts and Rhode Island.

Mr. SMATHERS. On interstate matters.

SEVERAL SENATORS. Vote! Vote!

Mr. BRIDGES. Mr. President, to briefly finish my remarks, I do not believe any Senator present in the Chamber or any thoughtful person in the country wants to see the railroads of this Nation forced into bankruptcy. If the bill can—and there is considerable evidence to show it can—provide an impetus toward a healthier climate for our Nation's railroads, it should be adopted. I again congratulate the committee for forthrightness in bringing the bill forward.

Mr. KEFAUVER. Mr. President, all of us appreciate the great value of our railroads to the Nation, both in peacetime and in wartime.

I think the evidence is fairly well established that a great many railroads are in bad condition and need some assistance. The causes for that situation, the background, and the determination of whose fault it was is not a matter of controversy or interest now. I feel that most citizens want to have the railroads treated fairly, as I do. Most citizens want to be of some assistance to the railroads in enabling them to survive.

I am not a member of the Committee on Interstate and Foreign Commerce, but I have taken the opportunity to study the bill and the report, and, of course, I have received a great deal of correspondence concerning the matter. Generally, I think the committee has done a very good job in carefully preparing a bill which will be of assistance to the railroads which need help and which, at the same time, will protect the public interest.

Many of these provisions should have been adopted. They are fair provisions, even if some of the railroads were not in a sick condition. Some of the provisions are justified under the special circumstances, to enable the railroads to get back on their feet.

My staff and I have prepared a brief analysis of the various sections of the bill, which I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

MEMORANDUM ON S. 3778, TO AMEND THE INTERSTATE COMMERCE ACT REGARDING INTERSTATE CARRIERS—SECTION-BY-SECTION ANALYSIS

Section 3: This section concerns the authority of the Interstate Commerce Commission over intrastate rates. In the Interstate Commerce Act the ICC, when it finds that rates, charges, or classifications charged in intrastate traffic cause undue, unjust, or unreasonable discrimination against interstate or foreign commerce, shall prescribe rates, charges, and classifications which will remove the discrimination. The committee report asserts that the attempts to revise these rates by the ICC have been hesitant and have occasioned much delay. Ordinarily the ICC has not taken action until the State regulatory

commission has completed action on intrastate rates.

This amendment directs the Commission, upon the filing of a petition by a carrier, to institute an investigation into intrastate rates, etc., whether or not the State commission has studied the matter or has action pending before it, and give special expedition to the hearing and decision therein.

This provision would also add the words "undue burden" to the grounds upon which the ICC may make adjustments in intrastate rates. The ICC would thus be able to adjust intrastate rates when they create an undue, unreasonable, or unjust discrimination against, or undue burden on, interstate commerce. The committee feels this is necessary to more clearly define the grounds for making adjustments, since it is oftentimes impossible under present circumstances to make a showing on which rate adjustments can be justified. It is difficult to see how this addition defines the grounds more clearly; it appears only to expand the discretion of the ICC.

This provision also allows the ICC to make a determination of what constitutes an undue, unreasonable, or unjust discrimination against, or undue burden on, interstate commerce without considering the totality of operations of the carrier within the State. This would allow the ICC to make adjustment of rates without referring to the relation of the rate in question to the carrier's entire State operations. It would eliminate the possibility that a rate could be adjusted only if the carrier's intrastate rate structure as a whole imposed a burden on interstate commerce.

Section 3: Also provides that in any proceeding before the ICC in which the carriers are seeking a general adjustment in rates, the carriers may petition for authority to make comparable adjustments in intrastate rates. If the ICC finds that a general adjustment in interstate rates without a comparable adjustment in intrastate rates would create a circumstance of advantage, preference, or discrimination or burden on interstate commerce, it may make a comparable adjustment in intrastate rates; these adjustments will be observed, any State laws or orders to the contrary notwithstanding.

Section 4: This provision relates to discontinuance of service. It provides that a carrier, after notifying the Commission, the governor of the State and posting other notices to public at least 30 days in advance, may discontinue service to an area. The carrier can discontinue operations unless the ICC issues an order to the contrary, the laws or orders of the State to the contrary notwithstanding. The ICC can prohibit such discontinuance upon beginning an investigation for 4 months and may require the continuation of such service if necessary for public convenience and necessity. State laws or orders remain in effect unless the carriers file with the ICC. The committee feels that the State commissions have been too slow and too unwilling to eliminate costly and unnecessary service, and therefore feels that the jurisdiction should be given to the ICC when discontinuance is applied for in that agency.

Section 5: This is the ratemaking amendment which provides that in proceedings involving competition between different modes of transportation subject to the ICC, the Commission shall consider the facts and circumstances attending the movement of the traffic by the carriers to which the rates are applicable when determining whether a rate is lower than a reasonable minimum rate. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy in this act.

This is a highly controversial provision and represents a compromise which the

truckers, at least, are willing to support. The railroads apparently desired a restriction on the authority of the ICC in this field. The committee did not accept this view which was opposed by all the competing modes of transportation. The committee felt that each mode of transportation should be given opportunity to set rates which reflect the inherent advantages of each, but that the ICC should retain the power to prevent unfair destructive practices. This provision, in effect, would admonish the ICC to allow rate setting which would encourage competition between different modes of transportation, but would prohibit practices which would be destructive and unfair. The committee notes that under this amendment, the principal, although not the exclusive emphasis in ratemaking proceedings between different types of transportation would be on the conditions surrounding the movement of the traffic by the mode to which the rate applies, thus stressing the inherent advantage of each mode.

This amendment is revised from the original Smathers proposal which stated only that the ICC "shall consider the facts and circumstances attending the movement of the traffic by railroad and not by such other mode."

Section 6: Provides assistance to the railroads in obtaining funds to finance or refinance the acquisition or construction of equipment or betterments, in obtaining funds for operating expenses, working capital, and interest on existing obligations. The United States would guarantee loans by private commercial institutions up to \$700 million including unpaid interest. The ICC would administer the program, the conditions for participation being that the railroad could not obtain other financing without the guaranty; prospective earnings of the railroad are such that there is a reasonable expectation of repayment; and the applicant carrier is not in need of reorganization of its capital structure. Only \$150 million could be used to guarantee loans for operating expenses and interest on obligations. Terms for loans cannot exceed 15 years; no dividends may be paid during the life of the loans; the ICC shall prescribe the security; the authority to guarantee loans would expire December 31, 1960.

The committee considers these loans a palliative to meet the short-range emergent fiscal problems of a few of the major railroads and will be helpful only if taken in conjunction with other long-range constructive programs. It feels this step must be taken to stave off bankruptcy of several of these roads.

Senator LAUSCHE objected to the use of money for paying interest on debt or for operating expenses, asserting that this would be an unjustified boon to the bondholders and a bad precedent.

Section 7: Provides for the creation of a construction reserve fund on which taxes are deferred. The purpose of the reserve fund is to encourage the replacement of physical facilities and for modernization of railroad plant. In computing Federal income tax, a deduction would be allowed equal to the amount in the fund but not to exceed in any 1 year the amount allowed for depreciation by the ICC. Funds could be used only for acquisition of equipment or reduction of debt for equipment obtained after passage of the act. These funds would have to be used in 5 years and any funds plus interest not so used would be subjected to taxation as of the date of deposit in the fund. The committee asserts that this provision is necessary to assist the railroads to maintain operational efficiency. Taxes will be deferred, not forgiven, until the funds are invested in physical plant.

Senator LAUSCHE maintained that this privilege should not be extended to an isolated industry, such as the regulated carriers. If the proposal has merit, he sug-

gested, then all business and industry should be given similar opportunity.

Section 8: This amendment restricts the exemption for motor transportation of agricultural products by providing that such exemption shall not apply to frozen fruits, frozen berries, or frozen vegetables. The committee states that the original exemption contained in the Interstate Commerce Act was intended to aid farmers by relieving them of some of the burdens of regulation and to facilitate movement of agricultural products. This exemption has been extended to commodities having undergone varying degrees of processing and to transportation of them in ordinary commerce. This has had a serious impact on the regulated carriers, and the committee is not convinced that the exemption is helping the farmers, either. This is a first step in reversing the trend toward further exemptions. Motor carriers brought under regulation by this amendment would be entitled to a permit allowing them to continue, under regulation hauling the same commodities within the same areas or between the same points.

Section 9: This amendment would prohibit any person in commercial enterprise from transporting property by motor vehicle unless such transportation is incidental to and in furtherance of, a primary business enterprise.

This amendment is designed to prevent the use of private, unregulated motor carriers in commercial transportation. These practices usually involve such devices as a private carrier purchasing commodities and then selling them at the other end of the line, when in fact the carrier is actually only transporting the goods similar to a common carrier; or a private carrier transports its own goods to market and then purchases commodities for the return trip in order to avoid an empty haul. These practices, which have been growing, are detrimental to the regulated carriers and should be prohibited, in the committee's opinion. These private carriers also evade the transportation tax in this way.

Other recommendations beyond the scope of the committee's jurisdiction and not in the bill: (1) Repeal of the transportation excise taxes; (2) 20-year depreciation for railroad property; (3) revamping mail transportation legislation; (4) general study of transportation policy by the Senate Interstate and Foreign Commerce Committee.

Mr. KEFAUVER. Mr. President, I have some questions to ask the Senator from Florida with respect to two sections of the bill which give me some concern.

What is the latest provision with reference to the part which State commissions will play in connection with the discontinuance of service? I ask this question because I feel that people in local communities have become accustomed to going to their State commissions in connection with questions relating to railroad service. I am speaking now more about service rather than rates.

We hear a great deal of talk about decentralizing operations, on a States rights basis. I think it is important that local people have available to them some forum before which they can present the pros and cons with reference to proposed discontinuance of service which affects them. I understand that an amendment to section 4 has been informally accepted. I should like to know the present interpretation of section 4, in the light of the amendment which has been accepted.

Mr. SMATHERS. Let me say to the able Senator from Tennessee that we have endeavored to meet the concern which he has so well expressed by an amendment to the amendment originally offered by the Senator from Georgia. His amendment would have stricken the entire section 4.

I understand that since that time the Senator from Georgia has considered the acceptance of an amendment to his amendment, which would leave State public utilities commissions completely in control of intrastate trains, trains which originate within the borders of a State and whose destination is within the borders of the State. The public utilities commission would control such trains, with respect to discontinuance, and so forth, and also the facilities, including the terminals and the depots which serve such intrastate trains.

Mr. KEFAUVER. That question would still be under the exclusive jurisdiction of the State utilities commission; is that correct?

Mr. SMATHERS. That is correct.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. KEFAUVER. I yield.

Mr. RUSSELL. I am no expert in this field, but the Senator from Florida has suggested language to change the original committee language so as to reserve jurisdiction in the State public utilities commission over all purely intrastate trains.

Mr. SMATHERS. I will go further and say that if it should develop that the language does not accomplish that purpose, in the light of the statements which have been made, we shall endeavor to modify it so as to make the purpose clear.

Mr. RUSSELL. I hope I did not say anything that could be interpreted as questioning the good faith of the Senator from Florida.

Mr. SMATHERS. The Senator knows that frequently we try to draft language which expresses our thoughts, and later it is interpreted in some other way. However, I think we have made the intention clear.

Mr. KEFAUVER. I am glad that an effort is being made to reach a satisfactory compromise. I feel that that would be an improvement. Particularly in connection with the matter of service, so far as intrastate operations are concerned, I think it is an important principle that the local people should have some local agency before which they can go to present their position.

I should like to have the distinguished chairman of the subcommittee, the Senator from Florida, answer another question. This question relates to interstate operations, discontinuances, and rates which come within the jurisdiction of the Interstate Commerce Commission.

It is the policy of the Interstate Commerce Commission, and is the right of the Interstate Commerce Commission, to send hearing examiners into the various communities to enable local people to present their position in their own States, without having to come to Washington. Is that correct?

Mr. SMATHERS. The Senator is correct. That is done frequently.

Mr. KEFAUVER. Does not the Interstate Commerce Commission itself have jurisdiction to divide into hearings groups, to go into the States and hold hearings on these particular matters?

Mr. SMATHERS. The Senator is correct.

Mr. KEFAUVER. I assume it would be contemplated that probably there would have to be more examiners, and probably the Commission itself would have to hold hearings in the various States to a greater extent than it has done in the past. Is that correct?

Mr. SMATHERS. The Senator is correct.

Mr. KEFAUVER. I thank the Senator from Florida.

There is one further provision in the bill with respect to which I had some doubts. It relates to section 5, the rate-making provision. I think the provision has been improved by the language now contained in the bill. I am sure we all feel that every form of transportation has certain advantages. All forms of transportation are entitled to be protected in the economies which they can effect. There are certain benefits in water transportation, truck transportation, rail transportation, and air transportation. We wish to try to be fair to each one of them, so that they can all compete fairly in the public interest.

My question with relation to section 5 is this: A barge line competes with a railroad in all of its services; but a railroad may compete with a barge line only with respect to a very small part of the railroad service.

As I understand section 5, the Interstate Commerce Commission may allow a railroad to make a rate to compete with a barge line, with respect to that part of the system where it does compete with barge lines, on the basis of its out-of-pocket expense, without considering its overhead. The overhead may be made up in that part of its operations with respect to which it does not compete with the barge line.

Is that situation still possible under section 5, or does the language "giving due consideration to the objectives of the national transportation policy declared in this act" require the railroad to take into consideration a part of its overhead in making its rate to compete with the barge line?

Mr. SMATHERS. Let me say to the Senator from Tennessee that, first, the rate section was one with which we wrestled probably longer than any other. The water carriers were very much opposed to the original language. With respect to the language we now have in the bill, so far as I know they have expressed neither public nor private objection to it. I conclude, therefore, that they feel that they are adequately protected.

Personally, I am of the opinion that they are adequately protected. The testimony before our subcommittee was that they were properly protected, in the light of the fact that in part III of the Interstate Commerce Act, which has to do

specifically only with water carriers, we find this language:

Differences in the classifications, rates, fares, charges, rules, regulations, and practices of a water carrier, in respect of water transportation, from those in effect by a rail carrier, with respect to rail transportation, shall not be deemed to constitute unjust discrimination, prejudice, or disadvantage, or an unfair or destructive competitive practice, within the meaning of any provision of this act.

In other words, they can set their own rates, irrespective of the effect upon other modes of transportation. By the present language we would permit the Interstate Commerce Commission to approve of rates of a given mode of transportation, irrespective of the direct relationship it may have to another mode of transportation, so long as such rates do not result in unfair competitive practices.

Mr. KEFAUVER. We know that in the past some efforts were made by some carriers to reduce their rates on a part of a system where they were competing with a water carrier, with the point in mind of almost eliminating the competition of the water carrier. It was alleged that that might be done in order to get the water carrier out of business, and then to raise rates later, and also making up the losses on some other parts of the system. I am sure that that is not being contemplated under the language of the provision we have been discussing, or that that is the intention of the language.

However, I should like to ask the Senator a question. We know that each form of transportation should have opportunity to make rates reflecting the different inherent advantages each has to offer, so that in every case the public may exercise its choice, cost, and service considered, in the light of the particular transportation task to be performed.

Is it the intention of the subcommittee that nothing should interfere with the public's realizing the beneficial or lower cost of each form of transportation that is offered?

Mr. SMATHERS. The Senator is correct. We do not expect anything to interfere with it. We say in our report that emphasis is placed on the fact that each mode of transportation has an inherent advantage over other modes of transportation. Water carriers, for example, have a certain inherent advantage over any other type of carrier. It is that a water carrier can carry cargo cheaper in bulk than almost any other type of transportation.

We want the public to be the beneficiary of each mode of transportation, and we ask the ICC to recognize the inherent advantages of the various modes of transportation.

Mr. LAUSCHE. Mr. President, will the Senator yield at that point?

Mr. SMATHERS. I yield.

Mr. LAUSCHE. The report of Senator Wheeler, who was chairman of the committee which wrote the report in 1940, setting forth the principle that each mode of transportation shall enjoy fully its inherent advantages, pointed

out that the water carriers at that time were specifically interested in not being deprived of using to the fullest their advantage in being able to carry cargo at low rates. It was on the basis of the arguments made by the water carriers that the declaration of policy was made that all modes of transportation shall be protected, to make certain that the public will enjoy the inherent advantages of each.

I must say to the Senator from Florida and to the Senator from Tennessee that it was the purpose of the subcommittee to carry into effect, through the language used, the identical thoughts expressed by the Senator from Tennessee, that each mode of transportation is to be insured the fullest enjoyment of its inherent advantages in transporting passengers and cargo, to the end that the public shall be served.

Mr. KEFAUVER. I am very happy to have that statement by the distinguished Senator from Ohio, who has given this matter such great and full study. I know it has been on the basis of his statement and that of the chairman of the subcommittee that the water carriers have not, as I understand, raised any objection to section 5 as it is now written. Is that correct?

Mr. LAUSCHE. That is correct. The arguments which were advanced against the definite redeclaration of the policy of the 1940 act were presented primarily by the truckers; that is, they wanted the purposes and the objectives which were originally intended to protect the inherent advantages to be diluted. However, the language used, although it may not seem clear, is definitely intended to redeclare this policy of the 1940 act.

Mr. KEFAUVER. So that the National Transportation Act and the policies with reference to the inherent advantages of each form of transportation—and in order that they may not be impaired—are fully sustained in the pending bill.

Mr. LAUSCHE. That is my belief, that the letter of the bill sustains that purpose, and it definitely has been the intention of the subcommittee, and of the entire committee, I believe, to sustain that objective.

Mr. KEFAUVER. I should like to ask a question of the Senator from Florida. Some people have expressed the belief that under the provisions of section 5 it would be possible for one type of carrier to lower its rate to such an extent that another carrier would not be able to compete fairly on the basis of charging the overhead to that other carrier. There is nothing in the provision contained in section 5, is there, which would enable one carrier to take undue advantage of another carrier, beyond the general policy set forth in the National Transportation Act?

Mr. SMATHERS. No. The answer is no.

Mr. KEFAUVER. I thank the Senator from Florida. The Senator from Florida and his colleagues on the subcommittee deserve a great deal of credit for the careful consideration they have given the pending bill. I must say it is difficult to understand what will happen

with reference to some sections of the bill, and I believe it will place a very heavy burden on the Interstate Commerce Commission to make sure that no form of transportation is being unfairly or unjustly discriminated against by virtue of the provisions of the bill.

I am encouraged in my support of the general principles of the bill by an editorial published in a newspaper on which I always rely to take a thoughtful and sound position on matters of public interest. I refer to the *Chattanooga Times*. In an editorial published a few days ago, the *Chattanooga Times* discussed the various provisions of the bill, and it comes to the conclusion that it is in the public interest. I ask unanimous consent that the editorial be printed in the *RECORD* at this point.

There being no objection, the editorial was ordered to be printed in the *RECORD*, as follows:

RAILROAD HELP A MUST

The evident prospect that the Senate will follow the House's lead and refuse to repeal the wartime transportation excise taxes on freight and passengers increases the urgency of the so-called Smathers bill to help the railroads.

That such help is needed is overwhelmingly conceded. The complexities are great. But Senator SMATHERS, of Florida, put the problem clearly when he said:

"Times have changed. The public prefers to ride bumper-to-bumper in its own automobiles, and when it doesn't have the time for traffic snarls it rushes to the faster, subsidy-assured airlines. Shippers like the flexibility of trucks rolling over tax-supported highways. And at the same time the Government insists on the railroads being regulated as the monopoly that they were before the advent of the Model-T Ford."

Not only are the Nation's railroads no longer a monopoly. Their situation is that total net working capital has declined from \$1.6 billion in 1945 to \$396 million at the first of this year. Last year income shrank an estimated 19 percent from 1956. Passenger traffic continues its decline. Several eastern roads face bankruptcy unless remedies are found for commuter and other problems. Admitted featherbedding practices by some unions have added to costs.

Among other provisions, the Smathers bill, which may come up for Senate action next week, proposes to free the railroads from some of the severe and outdated restrictions imposed upon them. Guaranteed loans would be made available on a basis similar to that for other modes of transport. Depreciation allowances would be strengthened.

An important, though politically sensitive, provision is for added authority to the Interstate Commerce Commission in matters governing intrastate service as they affect, directly and indirectly, interstate commerce.

If a railroad wants to abandon a consistently unprofitable operation within a State, for example, the St. Louis Post-Dispatch has said: "It is unfortunate that the State commissions are the ones to decide. They are most vulnerable to local pressures. It would, we believe, be an improvement if jurisdiction over all applications to discontinue service were vested in the ICC, as has been proposed in the subcommittee hearings."

The issue here is a difficult one. Improvement in the procedures of the State commissions, with close understanding of the railroads' real problems, would be an ideal solution. If the ICC would use some of the powers it already has, the proposal would be less significant.

There is some valid public belief that the railroads have not adequately explained their

obvious indifference to passenger traffic in some instances. On the other hand, Federal curbs often tie their hands.

The Smathers bill should receive general approval as the most feasible means at present of relieving the plight of the railroads. Even more broadly, the whole scope of modern competitive transportation, vital to the Nation, needs to be studied in detail with the railroad situation in mind.

Mr. NEUBERGER. Mr. President, I realize that the Members of the Senate are ready to vote on the proposed legislation, and I shall not take more than a minute or two to express my views.

The Senator from Florida and his colleagues on the subcommittee have rendered a national service in bringing forth the pending bill. I come from a State in which there are many railroad employees and many miles of main-line and branch-line railroads. I realize the concern of not only the employees of the railroads and of the management of those railroads, but also of the communities which the railroads serve.

Our State has been particularly hard hit in the past 4 or 5 years by the recession in the lumber industry. The recession, in turn, has been accentuated by the economic adversity suffered by the railroads. The railroads have had their revenues reduced by the fact that lumber, which is the principal tonnage emanating in our State, has been very sharply curtailed by the throttling of new housing construction, on which the lumber industry is so dependent.

Therefore, for all those reasons, and many others, I believe the Subcommittee on Surface Transportation, headed by the able Senator from Florida [Mr. SMATHERS], deserves a great deal of credit for bringing forth a program which promises to offer relief to the railroad industry and to the whole transportation system in general—although some of us may disagree with certain details of the program.

I should like to ask a question of the distinguished Senator from Florida, who deserves so much credit and approbation for the proposed legislation which is now before the Senate.

Mr. SMATHERS. I am deeply grateful to the junior Senator from Oregon for his characteristic generosity, but it is undeserved. We have a wonderful committee, which has faithfully and loyally worked on the bill: The Senator from Kansas [Mr. SCHOEPPEL], the Senator from Connecticut [Mr. PURTELL], and the Senator from Ohio [Mr. LAUSCHE]. The bill represents the best efforts of all of us.

Mr. NEUBERGER. The Senator from Florida is unduly modest as to his own role, however.

I feel quite certain that the bill will pass the Senate very shortly, perhaps this afternoon. I trust that its passage will not in any way diminish the efforts of the Senator from Florida and his colleagues on the Committee on Interstate and Foreign Commerce to try to bring about the elimination of the 3-percent Federal tax on freight shipments, and the 10-percent Federal tax on travel which, in my opinion, and I am certain in the opinion of the Senator from Florida, have so greatly and devastatingly

contributed to the plight in which the railroads find themselves.

The other day the Senator from Florida delivered one of the finest speeches ever made in the Senate on this issue. I simply want to have reassurance from him that he will continue his efforts with respect to the elimination of the freight and travel tax.

Mr. SMATHERS. The Senator from Oregon can be absolutely certain that we shall vigorously continue our efforts in that direction.

Mr. NEUBERGER. I thank the Senator from Florida for that reassurance, which is so comforting.

Mr. LAUSCHE. Mr. President, I regret that I cannot answer in the same tone. In my dissenting views, I recommended to the Committee on Finance the elimination of the 3 percent excise tax on freight shipments, but against the elimination of the 10 percent excise tax on passenger travel. I did so on the basis that the testimony showed that freight shipments were being diverted to private carriers.

Mr. NEUBERGER. And to carriers in Canada.

Mr. LAUSCHE. In order to avoid the payment of the 3 percent excise tax. But nothing in the testimony showed that there was any loss of passenger revenue because of the 10 percent excise tax. So I agreed to recommend the elimination of the 3 percent freight tax, but not the 10 percent passenger travel tax.

Mr. NEUBERGER. I am grateful that the Senator from Ohio has joined in the recommendation to eliminate the 3 percent tax on freight. So far as the Pacific Northwest is concerned—that is the region from which I come—it is the freight tax which is the most onerous. We are farther from our major markets than is any other part of the United States. Therefore, not only does the freight tax hurt the railroads, but it damages every single industry in the Northwest which has to ship its products so far to find markets.

It is my hope that in time we can pass a bill to eliminate the travel tax, as well. But I am grateful to the Senator from Ohio for the position he has taken concerning the elimination of the 3 percent tax on freight.

Mr. LAUSCHE. I did not join in the recommendation to eliminate the tax on travel because I was concerned with the general fiscal problem confronting the Committee on Finance, headed by the Senator from Virginia [Mr. BYRD], and confronting the administration, as well.

Mr. NEUBERGER. If at this session we can legislate to eliminate the Federal tax of 3 percent on freight, which is so bad for the State of the Senator from New Mexico, the Senator from California, and the other Senators from the Western States, I for one, will consider it to be a major advancement for all the industries located west of the Continental Divide.

Mr. POTTER. Mr. President, although I am not a member of the subcommittee which held hearings on the bill, I am a member of the full Committee on Interstate and Foreign Commerce. The full committee held additional hearings on the bill.

I wish to comment on the colloquy which took place a few minutes ago among the Senator from Tennessee, the Senator from Florida, and the Senator from Ohio, concerning the inherent advantages of having a national transportation policy written into the law. I believe it was on my suggestion that the full committee included in the bill language to correspond with the objectives of a national transportation policy. Under that policy, every mode of transportation is included.

Representatives of each mode of transportation testified before the committee that they would be perfectly happy to have their rate sections considered according to the national transportation policy. So in determining a rate, whether it be the rate for trucks, barge lines, or railroads, we stated that it had to be consistent with the national transportation policy.

The hearings on the so-called railroad problem held during this session of the Congress were lengthy and exhaustive in nature. From the statements and the testimony of those who appeared during the course of the hearings it is quite evident that the situation of the railroads is critical, indeed. Moreover, the most recent available data show that further deterioration of a serious nature is continuing right up to the present. How extremely vulnerable the railroads are to downturns in general economic activity, such as that recently experienced, is clearly indicated, for example, by recent and current data on carloading, employment, and earnings.

The conditions which one may observe in the railroad industry are urgent signals of real distress. They merit the most serious concern and obviously require immediate remedial steps. This is particularly evident when it is recognized, as it must be, that the present precarious situation of the railroads has not resulted only from the general economic downturn we have seen in past months. It is not to be expected that general economic recovery alone will suffice to relieve the basic problems which beset the railroad industry and other common carriers as well. The deterioration of the railroad situation and the transportation situation in general has not actually been so sudden as might appear from developments occurring during the past months of economic recession. The difficulties have been persistent and they are deep-seated; consequently, their circumstances must be taken into account in determining appropriate remedial measures.

All of this has serious implications extending far beyond mere concern for the future of the railroads as such. The railroads are a part of the great transportation industry. They are essential to the Nation's commerce and are vital to the defense of our country. They are, in a word, indispensable.

Thus it is of the utmost public interest that all modes of transportation be preserved and maintained in full vigor as efficient, economical, progressive, and financially sound instrumentalities of transportation. To permit their weakening and decline is to court disaster and the sheerest folly. The gravity of the present situation of the

railroads makes it imperative that they be given relief from at least some of the pressures and restrictions to which they are subject; for precarious and threatening as the present situation is, the future holds little promise of improvement unless constructive action is taken to enable them better to help themselves. Should they be allowed to deteriorate to the point where they could no longer adequately and efficiently perform their indispensable task under private ownership and management there could be only one result: Government ownership and operation. That, of course, is unthinkable so long as any alternative remains.

I and my colleagues on the committee believe that positive legislative action by the Congress is necessary in order to stave off an intolerable worsening of the railroad situation. In order to afford an opportunity for improvement in that situation, we have carefully considered a number of suggestions advanced during the hearings for dealing with certain aspects of the railroads' problems. While neither I nor my other colleagues are prepared at this time to endorse all, by any means, or even most, of the suggestions for remedial legislation received, the failure to include in S. 3778 any suggestion or proposal advanced should not be taken as a rejection by me or my colleagues of that suggestion or proposal. I believe, with my colleagues, that there should be action by Congress at once to provide at least a limited measure of relief, and that certain of the more readily apparent inequities and burdens may be alleviated in appreciable degree by means which are clearly constructive and which would effectively benefit the railroads—and to a substantial extent other common carriers as well—without having any unduly adverse effect on competing forms of transportation or the economy and without jeopardizing in any way the interests of shippers or the public generally.

Let me say that the pending bill, S. 3778, does not represent an effort at wholesale or comprehensive overhaul of our transportation policies. I recognize that, in a sense, this is only a patchwork approach, designed to deal in an incomplete and piecemeal fashion with merely a few individual facets of the overall transportation situation which urgently demand immediate action and which are susceptible of it.

Let us not delude ourselves that the limited measures recommended at this time will by any means be a panacea for the many troubles which beset the railroads and other common carriers. No panacea is intended. Many areas of trouble which quite obviously require corrective action will remain for the present untouched, for further consideration and later cure. In certain other areas additional study is needed before it can be determined whether there is or is not justification for the enactment of remedial legislation.

The urgencies of the situation justify immediate action, even though it be limited and incomplete. It is the purpose of the bill, in the interest of immediate action, to provide only a bare minimum

of simple and easily understood partial remedies which are directed to readily apparent ills and which are, or should be, noncontroversial.

Mr. CURTIS. Mr. President, will the Senator from Michigan yield?

The PRESIDING OFFICER (Mr. MORTON in the chair). Does the Senator from Michigan yield to the Senator from Nebraska?

Mr. POTTER. I yield.

Mr. CURTIS. I concur in much, if not all, of what the Senator has said. In my opinion this proposed legislation is a "must." It is in the interest of every American citizen that the transportation companies continue as taxpaying, private-enterprise operations.

Perhaps the bill is not all it should be, and I would not vouch for the correctness of every detail of it; but in the main I think the bill should be enacted, and I am supporting it.

Mr. POTTER. I thank the Senator from Nebraska.

I think a high degree of statesmanship has been demonstrated by the leaders of all modes of transportation—the railroads, the bus and truck lines, and the airlines—in arriving at a bill which we can support.

Mr. RUSSELL. Mr. President, as I understand the present parliamentary situation, the pending question is on agreeing to my amendment to strike out all of section 4 of the bill.

Objections have been made to the amendments in the nature of perfecting amendments to the text of the committee print of section 4. If those perfecting amendments are agreed to, even though they are not all that I would desire, I shall withdraw my original amendment by way of a perfecting amendment, if I am permitted to do so by the Senate.

So I ask whether the pending question is on agreeing to the amendment to strike the entire section from the bill.

The PRESIDING OFFICER. That is correct; the pending question is on agreeing to the amendment to strike out section 4 of the bill.

A substitute has been discussed, but it has not been offered.

Mr. RUSSELL. Perfecting amendments to the original text would have priority over the amendment to strike out, would they not?

The PRESIDING OFFICER. That is correct.

Mr. RUSSELL. Mr. President, I have another amendment, which I have discussed with the Senator from Florida and the Senator from Ohio. The amendment is with respect to the rather cavalier treatment given in the original bill to the officials of the States.

The effect of the amendment, which I ask to have read at the desk, is to require that the Governor of a State at least shall be notified before proceedings are removed from a State commission, thus invading a field which heretofore has been reserved to the States. I believe the amendment is important, because at least it will give the State commissions an opportunity to appear before the Interstate Commerce Commission and submit a protest.

I do not believe the amendment is controversial, and I ask that it be stated.

The PRESIDING OFFICER. The amendment submitted by the Senator from Georgia will be stated.

The CHIEF CLERK. On page 5, beginning in line 10, it is proposed to strike out the words "may, but shall not be required to, file with the Commission," and to insert in lieu thereof the words "shall be required, prior to filing with the Commission, to."

So the text at that point will read:

Any court or an administrative or regulatory agency of any State shall be required, prior to filing with the Commission, to mail to the Governor—

And so forth.

The PRESIDING OFFICER. The question is on agreeing to the perfecting amendment which has been submitted by the Senator from Georgia.

Mr. KUCHEL. Mr. President, I certainly think the amendment submitted by the Senator from Georgia is a good one. But I do not understand the parliamentary situation. Has unanimous consent been given to void the ordering of the yeas and nays on the question of agreeing to the original amendment of the Senator from Georgia?

Mr. RUSSELL. No. We are now in the process of perfecting the original text; and it will be necessary to do that before action is taken on the amendment to strike out the entire section.

Mr. KUCHEL. I thank the Senator from Georgia.

The PRESIDING OFFICER. The question is on agreeing to the perfecting amendment submitted by the Senator from Georgia.

The amendment was agreed to.

Mr. RUSSELL. Mr. President, I now submit, and send to the desk, amendments to the original text which were first suggested by the Senator from Florida, and were prepared, I assume, by the Senator from Florida and the committee staff. Of course, the Senate is familiar with the debate on the effect of these various amendments.

The PRESIDING OFFICER. The amendments submitted by the Senator from Georgia will be stated.

The CHIEF CLERK. On page 4, in line 24, after "13a", it is proposed to insert "(1)."

On page 5, in line 3, after the word "interstate", it is proposed to strike out the comma and to insert in lieu thereof "or"; and after the word "foreign", it is proposed to strike out the comma and the words "and intrastate"; and after the word "commerce", it is proposed to strike out the words "or any of them" and the following comma.

On page 5, in line 6, after the word "interstate", it is proposed to strike out the comma and to insert in lieu thereof the word "or"; and to strike out the words "and intrastate", and to strike out the final word "or."

On page 5, in line 7, it is proposed to strike out the words "any of them" and the following comma.

Mr. JAVITS. Mr. President, will the Senator from Georgia yield?

Mr. RUSSELL. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I understand that these particular amendments deal with the problem I raised this morning about the sole criterion in regard to "net loss" as a basis for Interstate Commerce Commission action insofar as a train which operates strictly intrastate is concerned, in that it will be removed from Interstate Commerce Commission jurisdiction. Am I correct as to that?

Mr. RUSSELL. Mr. President, I am not familiar with the first part of the Senator's statement with respect to controls; but the aim of the amendments is to remove from what I call the railroad's determination the right to abandon a train or service that is purely intrastate in character.

Mr. JAVITS. I believe I understood the Senator's purpose.

My point—if I may explain it; and certainly I believe it is important to the Senate—is that if the amendments were not added to the bill—of course, I have no doubt that they will be added to it—a railroad would have the right to discontinue a particular train, although it was intrastate, and the Interstate Commerce Commission would have the right to stop it only if the Interstate Commerce Commission could show that the operation of the train represented no net loss. And the purpose of my previous amendment is to try to broaden the criterion for that consideration.

I am trying to spell this out, because I believe it important in terms of the effect on the bill.

Therefore, I so understand the effect of the removal from the bill itself of the jurisdiction in respect to intrastate trains.

But if a train operates from one State into another State, notwithstanding that it is a commuter service preponderantly in only one State, it will nevertheless come under the provisions of this particular section of the bill, even after adoption of the amendments of the Senator from Georgia. Is that correct?

Mr. RUSSELL. That is my understanding of the provisions.

In the course of the debate, I said there is no question as to the constitutional power of Congress to legislate with respect to a train which goes from one State to another State—in other words, a train which crosses State lines. There may be some question as to the wisdom of congressional delegation of these powers; but there is no question as to the right of Congress under the Constitution to authorize the railroads to discontinue these trains, unless they are stopped by a rule nisi on a motion by the Interstate Commerce Commission.

But I do not think Congress has a right to deal in so cavalier a fashion—and I certainly gravely question the advisability of it—with a purely intrastate operation.

If I may state my views—although I am sure a court would go further to obtain the views of an expert on interstate commerce—let me say that I believe that a train which operates from New York City to Connecticut is subject to the provisions of this law, but

one which operates from New York City to White Plains, N. Y., would not be subject to the provisions of this law.

Mr. JAVITS. I thank the Senator from Georgia.

Mr. RUSSELL. That is my construction of the amendments as applied to the problem the Senator from New York has raised.

Mr. JAVITS. Mr. President, at this point will the Senator from Georgia yield to me?

Mr. RUSSELL. I yield.

Mr. JAVITS. I wish to say a word about the amendments. Is the Senator from Georgia willing to have me do so now, or does he prefer that I speak on them later?

Mr. RUSSELL. I am perfectly willing to have the Senator from New York make his statement now. I do not desire to discuss these matters further. I only wish to say that I hope the Senator from Florida and the Senator from Georgia have correctly understood what the amendments would accomplish.

Mr. JAVITS. I thank the Senator from Georgia.

Mr. President, I believe these amendments emphasize exactly what I was seeking to accomplish by means of the amendment I offered previously. I should like to redefine the purpose, so it will be crystal clear. In terms of jurisdiction, as well as in terms of substantive fact, this matter affects every Member of Congress who represents an area in which there is commuter service which is interstate; and I beg all my colleagues to listen closely, because they will hear more about this matter:

Where there is an interstate branch which comes under this section of the bill, the section provides that any railroad may discontinue that service; and the ICC can stop it, says this section, only if it shows that that particular train or branch is not operating at a net loss.

It seems to me this is giving a grant of power which we should not give, and certainly which we do not have any intention of giving.

If there is any doubt about it, I point out that the Senator from Florida [Mr. SMATHERS], the chairman of the subcommittee, said specifically in answer to my question, "Yes; if there is a net loss on the particular operation which is discontinued, then the ICC must permit it to be discontinued."

Under that interpretation, neither the public utilities commission of a State, nor the ICC, if that is to be the criterion, could prevent a discontinuation of any passenger service in the East, from Boston to New York, for instance, or from London to New York. Any line could be operating at a net loss under that standard.

I merely wish to call that matter to the attention of the Senate.

Mr. President, I ask unanimous consent to have incorporated in the RECORD a telegram from the counsel of the Public Service Commission of the State of New York, specially commenting on the amendment which I proposed, and which did not carry, setting forth the situation just as I described it to the Senate.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

ALBANY, N. Y., June 11, 1958.

Hon. JACOB K. JAVITS,
Senate Office Building,
Washington, D. C.:

The amendment of section 4 of S. 3778 which you propose is addressed to one of the most objectionable features of the present bill. The "net loss" clause. No one knows its meaning. Under ICC accounting principles, however, virtually every passenger facility produces net loss and hence the ICC would be powerless to halt any threatened discontinuance. Your proposal would permit the continuity of essential services. The present bill would not.

The New York commission opposes vesting supervening control of purely local services in the ICC and hence opposes enactment of the section. Nevertheless your proposed amendment is a marked improvement of it.

KENT H. BROWN,
Counsel, Public Service Commission.

Mr. JAVITS. Mr. President, I emphasize that point a little for this reason: Knowing a little about how legislation works, I have no doubt, if my contention is sound, that after reflection and consideration it will have attention, whether it is attention by amendment here or not. Therefore, I think it important to emphasize the matter by way of demonstrating that the amendment offered by the Senator from Georgia does not meet the particular issue I have raised. It may meet it in part, in the sense that it excludes strictly intrastate operations, but operations of commuter service trains, whether they be around Chicago or New York, are interstate, and not intrastate, and are not met by that amendment. The situation could have been met by the amendment I proposed.

Mr. President, I do not propose to take any more time of the Senate on the proposition. If I am right, the mere fact that it has been sharply called to the attention of the Senate and that the record on it is clear, is, to my mind, satisfactory. If I am right, and the situation were not changed, it would be scandalous. Therefore, I want to post that statement to the action on the amendment which has been offered by the Senator from Georgia. If the subcommittee considered the words "net loss" to mean net loss in consideration of the overall operations of a carrier—something broader than the net loss on the operation being discontinued—the provision might be tolerated and we could live with it.

Personally, I am for taking that jurisdiction out of the State level and putting it in the Federal level. I think we should help the railroads, but in doing it we should not swing the other way too far, and, as a matter of law, and not as a matter of discretion, permit the railroads to discontinue such service, and provide that the ICC cannot stop them, by leaving the language this way, because if the ICC tries to stop it the courts will stop the ICC.

I know the matter will be cleared, but I attempt to make the record clear by presenting my statement on the amendment offered by the Senator from Georgia, which I shall not oppose, and which

I think does to some extent help the situation.

Mr. KUCHEL. Mr. President—

The PRESIDING OFFICER. The Senator from California.

Mr. KUCHEL. I do not see the able junior Senator from Florida [Mr. SMATHERS] present on the floor, but I would appreciate it if I might have the attention of the able Senator from Georgia.

Quite aside from the language which would be changed by the amendment of the Senator from Georgia, my reading of the text of this amendment leads me to interpret the amendment in its later language as providing the following procedure, to me unorthodox and questionable: That X Railroad in the Senator's State or in my State would have a choice of jurisdiction if, indeed, it desired to avail itself of jurisdiction at all. X Railroad could, after announcing that it was abandoning a particular train service, have the matter heard before the State regulatory body and pursue such a course to finality in the State courts, and, being deprived of what it believed was its just due under State jurisdiction, could then come to the Interstate Commerce Commission and have a second hearing by the Interstate Commerce Commission. Is that the understanding of the Senator?

Mr. RUSSELL. That would be true as to any interstate operation, but it would not be true as to an intrastate operation. The Senator speaks about a hearing before the Interstate Commerce Commission. On the notifications which are filed with the Interstate Commerce Commission, there is no hearing, unless the Interstate Commerce Commission, within a certain period of time, determines that one should be had. Unless the Interstate Commerce Commission takes affirmative action to stop the railroad's action within a certain period of time, the railroad determines such action.

Mr. KUCHEL. The able Senator is stating, even assuming that his amendment is adopted today, the bill would still provide that the X Railroad, on its own ipse dixit, could determine completely to abandon runs of a certain train, and to that extent the matter would be final, unless the Interstate Commerce Commission took affirmative action and the State utilities commission, acting pursuant to its State constitution and State laws would be powerless to do anything at all.

Mr. RUSSELL. That is my interpretation of this provision. I may say I am not an expert in this field, but I am confident that interpretation is correct. A reading of the provision will indicate that is so. Unless the Interstate Commerce Commission takes affirmative action—I have forgotten the time limit; I think within 30 days—the notification by the railroad is effective.

Mr. KUCHEL. If the able Senator from Georgia agrees with the able Senator from New York, it would mean after an abandonment had been made the Interstate Commerce Commission could not overrule that decision unless it found that there was no net loss in

that particular operation. Is that correct?

Mr. RUSSELL. I would not want to undertake to interpret that. I am not sure there would have to be a loss as to that particular operation or whether there would have to be a loss on the overall operation of the service. I have not studied the bill from that angle. I went into the bill from the angle of its constitutionality and its impact on the State regulatory bodies and State commissions. The distinguished Senator from New York can perhaps give the Senator from California a more satisfactory answer because he has studied the question from the standpoint of income. I have approached it from the standpoint of the desire to protect the States in their control over local matters.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. KUCHEL. Yes. If there is anything in the RECORD which bears on the telling question which the Senator has raised as to what is meant by the phrase "net loss," as used on page 6, I think it will be helpful to have that pointed out.

Mr. JAVITS. The Senator from Florida left us in no doubt. I asked the question. He stated, in answer, that "net loss" refers to net loss on the particular operation sought to be discontinued. After he had said that and sat down, I again argued for my amendment and pointed out this was the whole ball game, that this was what we were talking about. He says it is so, and therefore we should correct it.

Mr. KUCHEL. Mr. President, I said earlier today I want to help the railroads of America, but the Senate and the Government of the United States must consider the public interest. I simply do not agree that the manner in which the amendment is written, even after the proposal of the Senator from Georgia is adopted, represents the interests of the public.

Mr. RUSSELL. Mr. President, let me say to the Senator from California that I am far from happy about the language. I try to be realistic about legislation. My original proposal was to strike the section from the bill. I have had some little familiarity with similar problems in the past, and I know something about the extent of the negotiation which has gone on between constituents and Members of this body with respect to the proposed legislation.

I determined at an early date that if I could get a quarter loaf from this situation it would be the part of wisdom to accept it. I have come out of it with that quarter loaf, which consists of the right of the States to control purely intrastate operations.

There is much in the bill and in the section of the bill we are discussing of which I do not approve. I decided it was better to salvage a quarter loaf than to lose everything.

Mr. KUCHEL. I thank the very able Senator from Georgia. I support his

proposal, but I shall object to the original provision of the bill even as it will be amended by the modification of the Senator from Georgia.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point, a letter from the Public Utilities Commission of California dated May 29, 1958.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PUBLIC UTILITIES COMMISSION,
STATE OF CALIFORNIA,
May 29, 1958.

Hon. THOMAS H. KUCHEL,
Member of the Senate,
Senate Office Building,
Washington, D. C.

DEAR SENATOR KUCHEL: Your attention is respectfully called to S. 3778 and H. R. 12488, which latter bill is a companion bill to S. 3778. These bills, now pending in the Congress, would amend several sections of the Interstate Commerce Act.

This Commission is particularly concerned over the provisions of sections 2, 3, and 4 of S. 3778, which would greatly extend the present authority of the Interstate Commerce Commission over purely intrastate operations of the railroads and completely nullify the authority of the several States to regulate intrastate rates and service.

This Commission recognizes the essentially unitary character of the railroads and the desirability of consistent nationwide regulation. We are convinced, however, that sections 2, 3, and 4 of this bill go much further than necessary to accomplish this objective and would make it quite impossible for State commissions to effectively protect even the most vital local interests. Indispensable commute service could be abandoned, for example, without any public hearing. So could any other service or facility.

We believe it to be feasible to develop legislation by which cooperation between the Federal and State regulatory agencies can be so perfected that the advantages of uniformity will be combined with the advantages of State participation in the solution of those problems which have great impact on the welfare of the State and its people. Particularly in California, because of the vast area of the State and the consequent significance of transportation in its economic development, it is essential that State authorities, with their special interest in and information about local problems, should retain a measure of authority and responsibility.

We urge, therefore, that you use your best efforts to eliminate sections 2, 3, and 4 of the said bill, if the bill is to be enacted into the law.

Very truly yours,
PETER E. MITCHELL,
President.

Mr. CARROLL. Mr. President, I desire to commend the very able Senator from Georgia for giving us an opportunity to vote for this bill. I think I would have opposed the bill had it not been for the amendment offered by the Senator from Georgia.

Mr. President, I have received a telegram from the Public Utilities Commission of the State of Colorado, and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

DENVER, COLO., June 2, 1958.

JOHN CARROLL,
Senator from Colorado,
Senate Building, Washington, D. C.

Strongly protest portions bill S. 3778 as relates to section 13 making ICC powers more complete over intrastate rail rates and giving ICC original jurisdiction over intrastate rail service. Proposed act would usurp State functions, open door for discriminatory rates and ruinous competition. Would also permit abandonment of passenger field that is purely local problem. Urge your determined opposition.

RALPH C. HORTON,
JOHN P. THOMPSON,
JOSEPH F. NIGRO,
Commissioners, the Public Utilities
Commission of the State of Colorado.

Mr. CARROLL. Mr. President, the telegram vigorously protests portions of the bill. It is felt that the bill would usurp State functions, open the door for discriminatory rates and bring about ruinous competition, as well as permitting the abandonment of a passenger field which is purely a local problem.

I suggest to the very able and distinguished lawyer, the Senator from Florida [Mr. SMATHERS], that the comments of the junior Senator from New York [Mr. JAVITS] are very pertinent. The record is clearly made with regard to the bill. I think we have to pay attention to the matter, because there can be a net loss and thereafter the abandonment of a railroad line which may affect the public interest.

I associate myself with the fine argument made by the distinguished Senator from Georgia [Mr. RUSSELL]. The bill is not all that we desire, but it can go forward so that we can give the relief which seems to be necessary for the railroads of this country.

The PRESIDING OFFICER. The question is on agreeing to the perfecting amendments offered by the Senator from Georgia.

The amendments were agreed to.

Mr. RUSSELL. Mr. President, in view of the statements I have made heretofore, and the action taken by the Senate, I now ask unanimous consent of the Senate to withdraw my original amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Georgia? The yeas and nays have been ordered.

Mr. RUSSELL. Mr. President, in view of the fact that the yeas and nays have been ordered on the amendment, it is necessary to ask unanimous consent to withdraw the amendment. The amendment is out of my custody and is in the custody of the Senate. If the Senate grants my unanimous-consent request to withdraw the amendment, the order for the yeas and nays will fall of its own weight.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Georgia? The Chair hears none; and, without objection, the amendment is withdrawn.

Mr. BEALL. Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The CHIEF CLERK. On page 18, beginning with the word "shall" after the single quotation mark on line 6, it is proposed to strike out all language down to and including the word "and" on line 9 of page 18.

Mr. BEALL. Mr. President, the purpose of the amendment is to keep the frozen fruits and vegetables under the Department of Agriculture and to exempt them from the provisions of this bill. It is necessary to do this, Mr. President, because frozen vegetables and fruits are very often sold and shipped in less-than-carload lots. Sometimes shipments are as small as 1,000 or 2,000 pounds at a time. It is not practicable or profitable for these items to be shipped in carload lots. They are joined with other shipments in smaller trucks. I hope the amendment will be agreed to.

Mr. SMATHERS. Mr. President, I completely sympathize with the problem which has been presented by the able junior Senator from Maryland. It is a problem which was also raised by the senior Senator from Maryland in the committee. We wrestled with the problem to see if we could provide some relief, but the wisdom of the subcommittee and the full committee was that we had better hold our ground.

Briefly, the reason we oppose the amendment is that if we accede to the wishes of the Senator from Maryland we shall be giving to the frozen fruit and vegetable people an advantage over the concentrate people and canners, which we do not believe anybody is entitled to have. It was the wish of the committee that we retain the language, with all deference to the Senator, and I hope the Senate will reject the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Maryland.

Mr. PROXMIRE. Mr. President, I hesitate very much to speak on the amendment or on the bill. I do so only because I think it is vitally necessary for the record to be complete. I have the hearings before me. The Department of Agriculture, the Department of Commerce, the Farm Bureau, the Farmers' Union, the National Grange, and the National Council of Farmers' Co-ops all indicated they opposed any change in the language of the present law of the kind the bill provides, and therefore it would seem to me on any kind of interpretation of their position they would support the amendment offered by the Senator from Maryland.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Maryland.

The amendment was rejected.

Mr. BEALL. Mr. President, I should like to ask the chairman of the subcommittee a question.

It is my understanding that the intent of section 8 (a) of the bill is to exempt such items as deviled crab and what is known as "imperial crab," crab cakes, hard shell crabs, fish with sauce or prepared for food, or fish frozen and shipped ready for serving. Is my understanding correct?

Mr. SMATHERS. The Senator is correct. We kept those items in the exempt status.

Mr. BEALL. I thank the Senator.

Mr. NEUBERGER. Mr. President, I offer an amendment to the bill (S. 3778) which I discussed earlier with the able Senator from Florida, the chairman of the subcommittee [Mr. SMATHERS].

My amendment would amend lines 6, 14, and 20 on page 6, in section 4, by inserting the word "or" between the words "train" and "ferry" and striking the words "station, depot or other facility."

The essential purpose of the amendment is to leave these particular items under State jurisdiction, as they are at present.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The CHIEF CLERK. On page 6, it is proposed to amend lines 6, 14, and 20 of section 4 by inserting the word "or" between the words "train" and "ferry" and striking the words "station, depot, or other facility."

Mr. SMATHERS. Mr. President I will accept the amendment, with the understanding that it will be the subject of a conference which we anticipate will ultimately result.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Oregon [Mr. NEUBERGER].

The amendment was agreed to.

Mr. SMATHERS. Mr. President, I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks a statement which I have prepared relating to Senate bill 3778.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR SMATHERS

During the past month or so, some newspapers and magazines carried the now-familiar advertisement with the provocative tag-line: "If the railroads didn't exist, we'd have to invent them."

This ad was designed to flash an image across the mind—briefly but vividly—of the paralysis which would result to our Nation if the railroads were suddenly whisked away.

I am sure those advertisements succeeded very effectively in what they set out to do. For it is clearly impossible to visualize the 20th century as we know it without the network of steel which is both its body skeleton and its central nervous system.

Without the railroads, there could be no quantity movement of heavy goods and consequently a stagnation of commerce. The great span of continent between the Atlantic and the Pacific would be chopped up into economic principalities and no doubt into different governments.

Each section would be walled up naturally within itself, living on its own limited resources and supplying its own needs as best it could.

Perhaps now, without the rails which bound us into one insoluble union and with

trucks and airlines just now coming into their maturity, we might be discussing tentatively the revolutionary concept of an economic union. This Congress might be meeting, as a convention of ambassadors, to consider ways of removing restrictions on trade.

Such is the image that leaps to mind, when we think of what would have happened without railroads (before the advent of trucks and airplanes).

However, there is an ironic aspect to this fantasy. If there were no railroads to this day or if they were still in the process of being built, we would at least be freed of certain preconceptions which today work against intelligent reform of our transportation system.

To a great extent, modern efforts to meet the changing conditions in the railroad industry have had to contend against the dead weight of the past.

This is true, equally in the board rooms of the major railroad companies and in the opinion-making forums of the Nation. You have only to wander through the reading room of any major library in the United States to find how considerable is the body of literature, created near the turn of the century, in which the railroads appear as a villainous monster, dwarfing the economy.

But those days are gone. However, it is difficult to erase their memory. Generations have been nourished on this lore, and minds resist weaning from comfortable long accepted tradition.

There are still railroad men who shy away from fact and dream fondly of glories that are past. And regrettably, too, there are still some among the public who would punish the railroads for the sins of old, who would have us put chains on the shadow of a colossus which is dead.

But the memories of 1890 ought not to influence the deliberations of 1958.

The choice before us is not between Federal regulation or arrogant monopoly. That decision was made irrevocably in 1887 when railroads were first put under regulation.

Today the threat is not monopoly—but, strangulation of a vital part of the Nation's transportation system.

The choice now is between a transportation industry operated under the traditional system of free enterprise, with its safeguard of decentralized control—and Government ownership or complete Government direction.

The evidence before our committee showed conclusively that the railroads are a sick and declining industry. The Government must either take them over or we the Congress must help them to help themselves.

There is no third choice. This is the common verdict of 20th century experience.

In nation after nation, the declining transportation industry has been the first—or among the first—to succumb to State control. I don't know how it strikes others, but it sends a cold chill down my spine to recall Mussolini's proud boast that, "I have made the railroads run on time."

This discomfiting fact is that today the United States is the only major Nation that still has a privately owned system of railroads.

Lacking the warning—and therefore the opportunities which remain to us—each of the nations in Europe has long since been forced to nationalize its railroads. Even on our own continent, Canada has had to place all of its railroads, except the Canadian-Pacific, under state ownership.

I think we are agreed that nationalization is not the answer which commends itself to Americans.

The crisis has been developing for some time. It was already well into an advanced stage when the Surface Transportation Subcommittee of the Committee on Interstate and Foreign Commerce announced its studies last November.

Railroad carloadings had steadily declined. Employment was falling precipitously 5,800 a month for 5 years. Railroad bond and stock issues were going begging. Orders for new equipment had been temporarily suspended. Maintenance work had dropped below the safe minimum.

Today—June 1958—conditions in the railroad industry are, if anything, worse—though it scarcely seems possible. The general recession has something to do with it—of course, but there is, in fact, cause to believe that the present recession is at least as much a railroad recession as it is a general recession.

The subcommittee began hearings in January on what we termed the deteriorating railroad situation. The hearings took 3 months. There was testimony from 110 witnesses.

Six months have gone by since the hearings began. And today the deteriorating situation has further deteriorated.

It is not a pleasant story to tell. I refer to our report, section on need for action for statistics and factual administration.

Our hearings produced two fundamental facts—which were restated or reiterated in one form or another by virtually every witness be he railroad man, or shipper, or expert, or representative of competing mill.

First, a basically healthy railroad system is absolutely essential to the defense and to the economic vitality of this Nation. Railroads are the backbone of our national transportation system which includes motor trucks, airlines, buses, and water carriers.

Second, there can be no doubt whatsoever that America's railroads are—without significant exception—in worsening financial condition. Defense Department witnesses, other Government spokesmen, consumers, and shippers—even the railroads' competitors—all were agreed: The railroads are essential and they are in trouble.

IMPORTANCE OF THE RAILROADS

To be sure, the railroads are not a very glamorous form of transportation.

But considering all costs, they remain far and away the cheapest means of transporting goods or equipment overland.

Railroads can haul a ton of freight 1 mile for less than a cent and a half. The cost on competitive forms of transportation ranges from 5 cents to more than 12 cents per ton-mile.

The average freight train is manned by a crew of five and carries a net load of 1,400 tons. To move the same volume by motor freight would require approximately 140 trucks and 140 drivers.

It costs roughly 6 cents to move a ton of freight 1 mile by motor carrier. That is four times the ton-mile cost of railway carriage. And it requires nearly three times as much fuel—obviously a matter to be considered in case of national emergency.

Research in the Army War College has revealed that Germany's collapse in World War II may be traced in part to der fuhrer's excessive faith in the total sufficiency of motor transportation.

Hitler had the notion that a streamlined network of "autobahnen" and "auto-strassen" or motor roads would do a better job for Germany than would railroads.

He launched a campaign to convert the German people to use of the motor instead of the rail. Deep in that odd and twisted brain of his, Hitler was already preparing for the war which he alone knew was coming.

It seemed quite plausible—even logical. But it turned out to be a fatal mistake.

Once the war began, Germany's thirst for gasoline became insatiable. It was a relatively easy matter for the Allies to shut off the major lines of fuel supply. Stocks were quickly exhausted, and before long Hitler's magnificent roads and his fleets of automotive equipment were utterly useless.

Had Hitler relied to a greater extent on Germany's railroads, his military position, we are told, would have been far stronger. Railroads are the backbone of any national transportation system—a fact, I might add, which the Russians clearly understand.

They are putting their major emphasis on development of a complete automated railway system—and already, although they are far behind us in track mileage, they are carrying more freight on their railroads than we are able to move on ours.

Low-cost, high-volume service—such as only the railroads can provide—is without question the cornerstone of defense production.

Consider the remarkable job that the railroads did during World War II in response to national need. From 1939 to 1944 the railroads more than doubled freight traffic. They increased passenger service fourfold. In both cases the increases were accomplished with only modest additions of manpower, equipment, and fuel.

At subcommittee hearings Defense Department representatives testified that during World War II the Government called upon the railroad industry to carry 90 percent of all military freight and to handle more than 97 percent of all personnel movements.

Without belaboring the obvious, I think it's clear that the railroads are equally important to agriculture and industry. They carry the bulk of the agricultural products of the Midwest and South to the consuming areas of the Nation. They transport the products of industry from the East to the West and from the North to the South.

SERIOUSNESS OF THE RAILROADS' FINANCIAL FLIGHT

Approximately 40 years ago the railroads transported three-fourths of all intercity ton freight traffic. Today they carry less than half this traffic—report 70 percent in 1929, 30 percent today.

The resulting loss of revenue has made it harder for the railroads to modernize and thus to effect cost savings.

A National City Bank of New York chart shows net return on investment of 73 industries—rails next to last.

Today one of the witnesses during the subcommittee hearings testified that for 1958 the rate of return on net investment to the country's class I railroads would probably not exceed 2.9 percent.

Consequently, the railroads are finding it increasingly difficult to attract investors.

Lacking both revenue and investment capital, the country's major railroads are today faced with a serious shortage of funds which must be available to meet current operating costs.

Just 3 years ago the class I railroads had net working capital amounting to \$938 million. By the end of last year, they had only half this amount.

This is about what it takes the railroads to operate for just over 2 weeks.

Today, the situation has become so serious that a couple of larger eastern carriers are afraid they may, at any time, have to skip a payroll.

The effect such drastic action would have on local communities and on individual families, on the general economy, would be nearly catastrophic.

In February 1957 class I railroads realized a \$47.5 million profit, but in February 1958 the same railroads lost \$10.7 million.

The task before us is to arrest this decline and give to this important segment of our transportation industry a new breath of economic oxygen.

It is imperative that we not delay.

No doubt there are many among us who dislike the idea of subsidizing the railroads, no matter how briefly. What ought we to say about the subsidies which we give, through foreign aid, to socialized transportation systems abroad?

The Miami Herald reported recently that we have handed out \$1.3 billion in such aid, including \$220.8 million to Italy, part of which was used to construct a mile-long marble and glass railroad station which is as big as the New York, Chicago, and Cleveland terminals combined.

We subsidize foreign transportation on the ground that it is essential to the common defense and to the economies of our allies.

Can we do less for our own national economy, for our own national safety?

I am hopeful that the Senate, in its wisdom, will see fit to accept our recommendations and enact S. 3778.

The hour is late and becoming later all the time.

Mr. HUMPHREY. Mr. President, I ask unanimous consent to have printed in the RECORD a statement I have prepared concerning my views on the transportation bill.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR HUMPHREY

I take this occasion to state my own support for S. 3778. The distinguished junior Senator from Florida [Mr. SMATHERS] and the other members of the Senate subcommittee and committee which have labored long and successfully on this legislation deserve the warmest congratulations.

The railroad industry is essential to our national economy. Its modernization and effective operation, the provision of competitive ratemaking, the possibilities for greater employment and better service, and other significant provisions of this bill, are important to the health and well-being of our entire country.

It has been a particular pleasure for me to work with the distinguished junior Senator from Florida. I am grateful to him for taking into consideration the views of many of my own constituents which I have communicated to him. I am glad to support this bill.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be printed at this point in the RECORD a statement prepared by the Senator from South Carolina [Mr. THURMOND] with reference to Senate bill 3778, which is about to be voted on.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR S. THURMOND WITH REFERENCE TO S. 3778

The railroad bill which we are considering is essential for the continued existence of our rail transportation. I do not believe that anyone could doubt that our railroads are in a perilous position, and that we must take action that will permit the railroads to improve their economic health.

It is only because of the drastic condition of the railroads that I can bring myself to support this measure since it embodies a substantial increase in authority for the Interstate Commerce Commission over intrastate rates and services. The Russell amendment as amended, in my opinion, did much to delete the objectionable features of section 4, with respect to intrastate services. I am delighted that this amendment was agreed to. Section 3 with regard to intrastate rates is still embodied in the bill, however. I feel very strongly that as a matter of principle, Federal regulation should be decreased in all fields rather than increased. Responsible action at the State level can never be fostered and encouraged by additional Federal regulation. The State agencies are closer to, and better

acquainted with, the problems of intrastate transportation, and I am convinced that the State agencies are, therefore, better equipped to regulate intrastate carriers in the public interest.

Only the urgency of the situation as shown during the hearings before the Surface Transportation Subcommittee could command my support of legislation containing the provisions of section 3 of this bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That this act may be cited as the "Transportation Act of 1958."

SEC. 2. Section 1 of the Interstate Commerce Act, as amended, is amended (1) by inserting in subparagraph (a) of paragraph (2) thereof, after the word "aforesaid" and before the semicolon following that word, the words "except as otherwise provided in this part" and (2) by striking out the period at the end of the proviso in subparagraph (a) of paragraph (17) thereof and inserting in lieu thereof the following "and except as otherwise provided in this part."

SEC. 3. (a) The first sentence of paragraph (4) of section 13 of the Interstate Commerce Act, as amended, is amended to read as follows:

"(4) Whenever in any such investigation the Commission, after full hearing, finds that any such rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against, or undue burden on, interstate or foreign commerce (which the Commission may find without considering in totality the operations or results thereof of any carrier, or group or groups of carriers wholly within any State), which is hereby forbidden and declared to be unlawful, it shall prescribe the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, preference, prejudice, discrimination, or burden: *Provided*, That upon the filing of any petition authorized by the provisions of paragraph (3) hereof to be filed by the carrier concerned, the Commission shall forthwith institute an investigation as aforesaid into the lawfulness of such rate, fare, charge, classification, regulation, or practice (whether or not theretofore considered by any State agency or authority and without regard to the pendency before any State agency or authority of any proceeding relating thereto) and shall give special expedition to the hearing and decision therein."

(b) Section 13 of the Interstate Commerce Act, as amended, is amended by inserting after paragraph (4) thereof a new paragraph (5) as follows:

"(5) In any proceeding before the Commission involving an investigation of or authorization or permission for a general adjustment in rates, fares, or charges, or any of them, of carriers subject to this part for the transportation of property or passengers, or both, in interstate commerce throughout, or substantially throughout, the United States, or 1 or more of the 3 major rate classification territories thereof (official, western, or southern), any such carrier or carriers parties thereto may by petition seek authority or permission of the Commission

for a comparable adjustment of rates, fares, or charges for the transportation of like property or passengers wholly within an individual State or individual States. If, in such proceeding, the Commission finds (as it is hereby authorized to do) that authorizing or permitting an adjustment in interstate rates, fares, or charges without authorizing or permitting a comparable adjustment in intrastate rates, fares, or charges would cause, or create a circumstance of, advantage, preference, prejudice, discrimination or burden declared in paragraph (4) of this section to be unlawful, the Commission shall, incident to any adjustment it may authorize or permit in such interstate rates, fares, or charges, authorize or permit a comparable adjustment in such intrastate rates, fares, or charges. Pursuant to such authorization the said carrier or carriers, upon making any adjustment so authorized or permitted by the Commission in such interstate rates, fares, or charges may without further authority make a comparable adjustment in such intrastate rates, fares, or charges, and adjustments so made in intrastate rates, fares, or charges shall be observed while continued in effect by the said carrier or carriers, the law of any State or the decision or order of any State authority to the contrary notwithstanding."

SEC. 4. The Interstate Commerce Act, as amended, is amended by inserting after section 13 thereof a new section 13a as follows:

"SEC. 13a. A carrier or carriers subject to this part, if their rights with respect to the discontinuance or change, in whole or in part, of the operation or service of any train or ferry engaged in the transportation of passengers or property in interstate or foreign commerce, or of the operation or service of any station, depot or other facility where passengers or property are received for transportation in interstate or foreign commerce, are subject to any provision of the constitution or statutes of any State or any regulation or order of (or are the subject of any proceeding pending before) any court or an administrative or regulatory agency of any State, shall be required prior to filing with the Commission to mail to the Governor of each State in which such train, ferry, station, depot, or other facility is operated, and post in every station, depot, or other facility directly affected thereby, notice at least 30 days in advance of any such proposed discontinuance or change. The carrier or carriers filing such notice may discontinue or change any such operation or service pursuant to such notice except as otherwise ordered by the Commission pursuant to this section, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any court or State authority to the contrary notwithstanding. Upon the filing of such notice the Commission shall have authority during said 30 days' notice period, either upon complaint or upon its own initiative without complaint, to enter upon an investigation of the proposed discontinuance or change. Upon the institution of such investigation, the Commission, by order served upon the carrier or carriers affected thereby at least 10 days prior to the day on which such discontinuance or change would otherwise become effective, may require such train or ferry to be continued in operation or service, in whole or in part, pending hearing and decision in such investigation, but not for a longer period than 4 months beyond the date when such discontinuance or change would otherwise have become effective. If, after hearing in such investigation, whether concluded before or after such discontinuance or change has become effective, the Commission finds that the operation or service of such train or ferry is required by public convenience and necessity and that such operation or service will not result in a net loss therefrom to the carrier or carriers and will not otherwise unduly

burden interstate or foreign commerce, the Commission may by order require the continuance or restoration of operation or service of such train or ferry, in whole or in part, for a period not to exceed 1 year from the date of such order. The provisions of this section shall not supersede the laws of any State or the orders or regulations of any administrative or regulatory body of any State applicable to such discontinuance or change unless notice as in this section provided is filed with the Commission. On the expiration of an order by the Commission after such investigation requiring the continuance or restoration of operation or service, the jurisdiction of any State as to such discontinuance or change shall no longer be superseded unless the procedure provided by this section shall again be invoked by the carrier or carriers."

SEC. 5. Section 15a of the Interstate Commerce Act, as amended, is amended by inserting after paragraph (2) thereof a new paragraph (3) as follows:

"(3) In a proceeding involving competition between carriers of different modes of transportation subject to this act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this act."

SEC. 6. The Interstate Commerce Act, as amended, is hereby amended by inserting immediately after section 20c thereof the following new section:

"SEC. 20d. (1) It is the purpose of this section to aid common carriers by railroad subject to this part in rendering proper transportation service to the public by providing temporary financial assistance to them in obtaining funds to finance or refinance the acquisition or construction of equipment or additions and betterments for use in transportation service and in obtaining funds needed for operating expenses, working capital, and interest on existing obligations, all to the end of fostering the preservation and development of a national transportation system adequate to meet the needs of the commerce of the United States, of the postal service, and national defense.

"(2) In order to carry out the purpose declared in this section, the Commission, upon terms and conditions prescribed by it and consistent with the provisions of this section, may guarantee any lender, or trustee under a trust indenture or agreement for the benefit of the holders of any securities issued thereunder, by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan, discount, or advance, or on any commitment in connection therewith, which may be made for the purposes set forth in this section, except that there shall be no guarantee of a loan to be used in reduction of the principal of an obligation other than in connection with the refinancing of an equipment obligation: *Provided*, That in no event shall the aggregate of all loans guaranteed by the Commission, including unpaid interest, exceed \$700 million, of which no more than \$150 million may be loans for operating expenses and interest on existing obligations.

"(3) Any such carrier may, prior to December 31, 1960, make application to the Commission, in such form as the Commission may prescribe, requesting guaranty by the Commission as herein authorized and setting forth the amount and term of the loan to be guaranteed; the purpose of the loan and the use to which the proceeds therefrom will be applied; the inability of

the applicant to obtain such funds on reasonable terms without such guaranty; the character and value of the security, if any, that the applicant will pledge as collateral for the loan; and that the loan is necessary or appropriate to effectuate the purpose of this section. The application shall be accompanied by statements showing in detail such facts as the Commission may require with regard to the situation of the applicant. The Commission shall give preference to and expedite the consideration of any such application.

"(4) No guaranty shall be made under this section—

"(A) unless the Commission is of the opinion that the proposed loan is necessary or appropriate to effectuate the purpose of this section;

"(B) unless the Commission is of the opinion that without such guaranty the applicant carrier would be unable to obtain necessary funds, on reasonable terms, for the purposes for which the loan is sought;

"(C) if the loan involved is at a rate of interest which, in the judgment of the Commission, is unreasonably high, or if the terms of such loan permit full repayment more than 15 years after the date thereof;

"(D) unless the Commission is of the opinion that the prospective earning power of the applicant carrier, together with the character and value of the security pledged, if any, furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and reasonable protection of the United States.

"(E) unless the Commission is of the opinion that the applicant carrier is not in need of reorganization of its capital structure.

"(F) unless the applicant carrier agrees that it will declare no dividends on its capital stock as long as the loan remains unpaid.

"(5) The Commission may consent to the modification of the provisions as to rate of interest, time of payment of interest or principal, security, if any, or other terms and conditions of any guaranty which it shall have entered into pursuant to this section, or the renewal or extension of any such guaranty, whenever the Commission shall determine it to be equitable to do so.

"(6) Payments required to be made as a consequence of any guaranty by the Commission pursuant to the provisions of this section shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for the purpose of carrying out the provisions of this section.

"(7) The Commission shall prescribe and collect a guaranty fee in connection with each loan guaranteed under this section. Such fees shall not exceed such amounts as the Commission estimates to be necessary to cover the administrative costs of carrying out the provisions of this section. Sums realized from such fees shall be deposited in the Treasury as miscellaneous receipts.

"(8) (a) To permit it to make use of such expert advice and services as it may require in carrying out the provisions of this section, the Commission may use available services and facilities of departments and other agencies and instrumentalities of the Government, with their consent and on a reimbursable basis.

"(b) Departments, agencies, and instrumentalities of the Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this section.

"(9) Administrative expenses under this section shall be paid from appropriations made to the Commission for administrative expenses.

"(10) Except with respect to such applications as may then be pending, the authority granted by this section shall terminate at the close of December 31, 1960: *Provided*, That its provisions shall remain in

effect thereafter for the purposes of guaranties made by the Commission."

SEC. 7. (a) Clause (6) of subsection (b) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a colon and the following: "*Provided*, That the words property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)' as used herein shall include property shown as 'Exempt' in the 'Commodity List' incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as 'Not exempt': *Provided further, however*, That notwithstanding the preceding proviso the words 'property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)' shall not be deemed to include frozen fruits, frozen berries, or frozen vegetables and shall be deemed to include cooked or uncooked (including breaded) fish or shellfish, when frozen or fresh."

(b) Unless otherwise specifically indicated therein, the holder of any certificate or permit heretofore issued by the Interstate Commerce Commission, or hereafter so issued pursuant to an application filed on or before the date on which this section takes effect, authorizing the holder thereof to engage as a common or contract carrier by motor vehicle in the transportation in interstate or foreign commerce of property made subject to the provisions of part II of the Interstate Commerce Act by paragraph (a) of this section, over any route or routes or within any territory, may without making application under that act engage, to the same extent and subject to the same terms, conditions, and limitations, as a common or contract carrier by motor vehicle, as the case may be, in the transportation of such property, over such route or routes or within such territory, in interstate or foreign commerce.

(c) Subject to the provisions of section 210 of the Interstate Commerce Act, if any person (or its predecessor in interest) was in bona fide operation on January 1, 1958, over any route or routes or within any territory, as a common, contract, or exempt carrier engaged in the transportation of property by motor vehicle made subject to the provisions of part II of that act by paragraph (a) of this section, in interstate or foreign commerce, and has so operated since that time (or if engaged in furnishing seasonal service only, was in bona fide operation on January 1, 1958, during the season ordinarily covered by its operations and has so operated since that time), except in either instance as to interruptions of service over which such applicant or its predecessor in interest had no control, the Interstate Commerce Commission shall without further proceedings issue a certificate or permit, as the case may be, authorizing such operations if application therefor is made to the said Commission as provided in part II of the Interstate Commerce Act and within 120 days after the date on which this section takes effect. Pending the determination of any such application, the continuance of such operation without a certificate or permit shall be lawful. Any carrier which on the date this section takes effect is engaged in an operation of the character specified in the foregoing provisions of this paragraph, but was not engaged in such operation on January 1, 1958, may under such regulations as the Interstate Commerce Commission shall prescribe, if application for a certificate or permit is made to the said Commission within 120 days after the date on which this section takes effect, continue such operation without a certificate or permit pending the

determination of such application in accordance with the provisions of part II of the Interstate Commerce Act.

SEC. 8. Subsection (c) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "nor shall any person in any other commercial enterprise transport property by motor vehicle in interstate or foreign commerce unless such transportation is incidental to, and in furtherance of, a primary business enterprise (other than transportation) of such person."

Mr. BRICKER. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. SMATHERS. Mr. President, move to lay that motion on the table.

The motion to reconsider was laid on the table.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the joint resolution (H. J. Res. 624) making additional supplemental appropriations for the Department of Labor for carrying into effect the provisions of the Temporary Unemployment Compensation Act of 1958, and for other purposes.

MAJ. GEN. JOSEPH WILLIAM KELLY

Mr. CAREHART. Mr. President, I assume most Senators are aware that the gentleman who has been a fine friend of all of us, Maj. Gen. Joseph William Kelly, Director of Legislative Liaison for the Air Force, will leave us in July to assume new and greater responsibilities as another step in what has been a very distinguished military career.

Gen. Joe Kelly, as we all know him, will become commanding officer of the Air Proving Ground Center, Air Research and Development Command, at Eglin Field, Fla.

I know that all Senators will be as happy as I am for this promotion. At the same time, I am just as sure that all will be as sorry as I am to see Joe Kelly leave our midst.

Mr. President, it is a matter of great personal pride with me that General Kelly is a fellow Hoosier. He was born at Waverly in Morgan County, Ind., was graduated from the Martinsville, Ind., High School, and for a year attended DePauw University at Greencastle, Ind., before entering United States Military Academy in July of 1928.

That was the beginning of a brilliant military career which took General Kelly to many parts of the world. General Kelly had a very distinguished record in World War II and in the Korean war.

It was a fortunate thing for the Congress when General Kelly, in August of 1953, was assigned as Director of Legislative Liaison. He has done an outstanding job through his very excellent staff and I simply want to say to him through these remarks that he has our heartiest congratulations and best wishes for the future.

APPROPRIATIONS FOR DEPARTMENTS OF STATE AND JUSTICE, THE JUDICIARY, AND RELATED AGENCIES, 1959

Mr. SMATHERS. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 1714, House bill 12428, a bill making appropriations for the Departments of State and Justice, the Judiciary, and related agencies for 1959.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The CHIEF CLERK. A bill (H. R. 12428) making appropriations for the Departments of State and Justice, the Judiciary, and related agencies for the fiscal year ending June 30, 1959, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Florida.

Mr. KNOWLAND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion of the Senator from Florida that the Senate proceed to the consideration of House bill 12428.

The motion was agreed to; and the Senate proceeded to consider the bill (H. R. 12428) making appropriations for the Departments of State and Justice, the Judiciary, and related agencies for the fiscal year ending June 30, 1959, and for other purposes, which had been reported from the Committee on Appropriations with amendments.

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of amendment, and that points of order shall not be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments of the Committee on Appropriations agreed to en bloc are as follows:

On page 3, line 19, after the word "aids," to strike out "\$100,000,000" and insert "\$102,000,000"; on page 4, line 2, after the word "exceed," to strike out "\$3,000" and insert "\$4,000", and in line 4, after the word "exceed", to strike out "\$5,000" and insert "\$6,000."

On page 4, line 10, after "(22 U. S. C. 1131)", to strike out "\$650,000" and insert "\$1,000,000."

On page 6, line 10, after the word "chauffeurs", to strike out "\$1,646,000" and insert "\$1,692,500: *Provided, That, hereafter, Senate delegates to Conferences of the Interparliamentary Union shall be designated by the Presiding Officer of the Senate.*"

On page 7, at the beginning of line 3, to strike out "\$1,500,000" and insert "\$1,950,000."

On page 9, line 4, after the numerals "1944", to strike out "\$750,000" and insert "\$1,000,000."

On page 12, line 22, after the word "amended", to strike out "\$20,800,000" and

insert "\$30,800,000"; in line 23 after the word "than", to strike out "\$6,750,000" and insert "\$8,750,000", and on page 13, line 1, after the word "exceed", to strike out "\$1,387,500" and insert "\$1,766,607."

On page 18, line 21, after the word "ammunition", to insert "attendance at firearms matches", and on page 19, line 12, after the words "Attorney General", to strike out the colon and "*Provided further, That, hereafter the compensation of the Commissioner of the Immigration and Naturalization Service shall be \$20,000 per annum.*"

On page 20, line 9, after "(5 U. S. C. 341f)", to strike out "\$32,800,000" and insert "\$33,707,000."

On page 27, line 19, after "section 3041", to strike out "\$4,925,000" and insert "\$4,995,000: *Provided, That \$70,000 of the foregoing amount shall be immediately available.*"

On page 28, line 5, after the word "case", to strike out "\$2,950,000" and insert "\$3,000,000", and at the beginning of line 7, to strike out "\$12,000" and insert "\$15,000."

On page 28, line 15, after the word "elsewhere", to strike out "\$925,000" and insert "\$975,000."

On page 32, line 10, after the word "organizations", to strike out "\$97,000,000" and insert "\$100,000,000"; in line 13, after the word "States", to insert "and of which sum not less than \$650,000 shall be available by contracts with one or more private international broadcasting licensees for the purpose of developing and broadcasting under private auspices, but under the general supervision of the United States Information Agency radio programs to Latin America, Western Europe, Africa, as well as other areas of the free world, which programs shall be designed to cultivate friendship with the peoples of the countries in those areas, and to build improved international understanding", and in line 22, after the word "exceed", to strike out "\$75,000" and insert "\$135,000."

On page 35, line 6, after the numerals "1956", to strike out "\$6,000,000" and insert "\$6,821,000", and in line 8, after the word "of", to strike out "\$25,000" and insert "\$50,000."

Mr. JOHNSON of Texas. Mr. President, there is before the Senate a report covering all of the items in this bill. The overall facts can be stated simply and quickly.

The overall amount recommended by the committee is \$588,717,113. This is under the budget estimate by \$567,898 and over the House figure by \$17,994,500.

The division of this sum between the Department of State, the Department of Justice, the Judiciary, and related agencies is set forth in the report. I wish to make only a few brief comments.

In arriving at our recommendations, the committee sought to apply only one test. It was whether a sum was adequate to do the job required for the safeguarding of the security of the United States.

I believe most of us are aware of an elementary fact. It is that in this very uncertain and troubled world, our first line of security is the personnel of the Foreign Service.

We are not dealing here with the men who must fight the physical battles in event of war. But we are dealing with men and women who must succeed in their daily tasks lest other Americans be faced with the necessity of armed conflict.

In this situation, it seemed to us that we should neither pinch pennies nor

scatter dollars to the winds. We must act as prudent men who realize that a certain amount of effort and a certain amount of money must be spent to reach our goals.

It has been my observation that by and large the members of the Foreign Service are dedicated people. They perform difficult tasks under exacting circumstances.

They are not entitled to any more credit than other Americans who are equally dedicated and who perform equally exacting tasks. But neither are they entitled to any less credit.

And they are certainly entitled to the tools that are needed to do the job.

The committee has not allowed all the recommendations of the State Department. We cut the item for salaries and expenses \$3 million below the budget estimate.

But there were some items upon which we granted the full amount. And there was one item which we increased because we were convinced that the best interests of our country called for a substantial increase.

On the latter item, I am referring to our recommendation of \$30,800,000 for International Educational Exchange Activities. According to responsible testimony, this is one of our most effective foreign policy programs.

In this field, the facts are quite simple. It has been demonstrated that our most effective good will ambassadors are people of foreign lands who have an opportunity to come to this country and observe America for themselves.

This is a country where we have nothing to hide—nothing to conceal. We have our faults. But they are faults which are human and which are understandable.

We hope this program can be expanded—particularly in Latin America. We hope that the Department of State will make the best possible use of foreign credits and currencies that are available.

This is a program which has proven its benefits to the people of our country. It should be encouraged.

We have also recommended the full sum asked by the Budget Bureau for representation allowances. This is an issue which I believe should be met head on without any effort to conceal or hide the facts.

The total recommended for this item is \$1 million. This amount would be spread among Foreign Service officers at 80 diplomatic missions and 200 consular posts abroad.

This sum will not permit any lavish entertainment. Nor will it lead to wild spending which is unchecked by any independent audit.

All of the money must be spent on the basis of a voucher. All of the vouchers are subject to audit by the General Accounting Office—an agency noted for its detailed scrutiny.

Every grown man who has had experience in the business world is aware of the fact that some social entertainment is essential to the operation of any flourishing business. Private industry, almost without exception, sets aside some of its funds for that purpose.

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued June 13, 1958
For actions of June 12, 1958
85th-2d, No. 95

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HIGHLIGHTS: House committee reported bill to extend Defense Production Act.
House committee ordered reported omnibus transportation bill. Conferees agreed to file report on pay raise bill.

HOUSE

1. DEFENSE PRODUCTION. The Banking and Currency Committee reported without amendment H. R. 10969, to extend the Defense Production Act until June 30, 1960 (H. Rept. 1873). p. 9955
2. PEANUTS. The Agriculture Committee reported with amendment H. R. 12224, to prohibit the creation of an acreage history on peanuts after 1957 by those growing peanuts without an acreage allotment (H. Rept. 1875). p. 9955
3. TRANSPORTATION. The Interstate and Foreign Commerce Committee ordered reported with amendment H. R. 12832, to amend the Interstate Commerce Act so as to strengthen and improve the national transportation system. p. D534
~~Received several petitions from employees of railroads favoring enactment of this bill, H. R. 12832. p. 9956~~
4. WEATHER MODIFICATION. The Rules Committee reported a resolution for consideration of S. 86, to provide for a research program in the field of weather modification to be conducted by the National Science Foundation. pp. 9949, 9955

5. BUILDINGS. The Public Works Committee reported without amendment S. 2108, to authorize GSA to name, rename, or otherwise designate any building under its custody (H. Rept. 1871). p. 9955
6. SURPLUS PROPERTY. The Government Operations Committee ordered reported with amendment S. 2752, to modify the procedures for submitting proposed surplus property disposals to the Attorney General. p. D534
7. SURPLUS FOOD. The "Daily Digest" states that the Consumer Study Subcommittee of the Agriculture Committee "voted to recommend to the full committee a proposed amendment for a food stamp plan for inclusion in the omnibus farm bill." p. D533
8. INFORMATION; CIVIL DEFENSE. The "Daily Digest" states that the Government Operations Committee "approved the following reports entitled, respectively, 'Availability of Information From Federal Departments and Agencies (Department of Defense)' and 'Analysis of Civil Defense Reorganization (Reorganization Plan No. 1, 1958)'. " p. D534
9. PAY RAISE. Conferees agreed to file a conference report on S. 734, the pay raise bill for classified employees. The "Daily Digest" states that "major agreements of the conferees were: (1) on House provisions relating to upgrading of scientists and engineers under section 803 of the Classification Act, (2) for a total of 292 supergrade positions (Senate bill contained 568 such positions), (3) for a total of 307 additional professional and scientific positions (Senate bill contained 555 such positions), and (4) on Senate language relative to the hiring of college graduates at grade 7 instead of at grade 5." p. D535
10. CIVIL SERVICE. The Government Operations Committee submitted the 26th report of the Committee on civil service reorganization (H. Rept. 1874). p. 9955
11. APPROPRIATIONS. Conferees were appointed on H. R. 12540, the Commerce and related agencies appropriation bill for 1959. Senate conferees were appointed June 10. p. 9913
12. LEGISLATIVE PROGRAM. Rep. McCormack announced the following program: Mon, June 16: Consent Calendar; S. 734, the pay raise bill; H. R. 10969, to extend Defense Production Act; S. 3093, to extend Export Control Act; S. 846, to establish National Outdoor Recreation Resources Review Commission; and H. R. 12226, salt water distillation facilities for Virgin Islands. Tues: Private Calendar and H. R. 4504, agricultural marketing facilities perishable product bill. Wed., Thurs., and Fri: H. R. 12858, public works appropriation bill, and S. 83, cloud modification research bill. pp. 9948-49
13. COST-TYPE BUDGET. In reporting H. R. 12858, the public works appropriation bill (see Digest 92), the Appropriations Committee included the following statement in its report:

"The budgets of the Bureau of Reclamation and the Corps of Engineers as presented to the Congress contained extraneous matter related to cost-type budgeting. In order that the Committee and the witnesses could have before them an understandable set of figures in connection with consideration of the bill, it was necessary to delete where possible the cost-type schedules and data in preparation of the Committee Print. As stated in last year's report the cost-type budget is clearly of no value to the Committee in its review process and certainly no assistance in curtailing

85TH CONGRESS
2D SESSION

S. 3778

IN THE SENATE OF THE UNITED STATES

JUNE 16, 1958

Ordered printed as passed

AN ACT

To amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Transportation Act of
4 1958".

5 SEC. 2. Section 1 of the Interstate Commerce Act, as
6 amended, is amended (1) by inserting in subparagraph
7 (a) of paragraph (2) thereof, after the word "aforesaid"
8 and before the semicolon following that word, the words
9 "except as otherwise provided in this part" and (2) by
10 striking out the period at the end of the proviso in subpara-

1 graph (a) of paragraph (17) thereof and inserting in lieu
2 thereof the following "and except as otherwise provided in
3 this part."

4 SEC. 3. (a) The first sentence of paragraph (4) of
5 section 13 of the Interstate Commerce Act, as amended, is
6 amended to read as follows:

7 "(4) Whenever in any such investigation the Com-
8 mission, after full hearing, finds that any such rate, fare,
9 charge, classification, regulation, or practice causes any undue
10 or unreasonable advantage, preference, or prejudice as be-
11 tween persons or localities in intrastate commerce on the one
12 hand and interstate or foreign commerce on the other hand,
13 or any undue, unreasonable, or unjust discrimination against,
14 or undue burden on, interstate or foreign commerce (which
15 the Commission may find without considering in totality the
16 operations or results thereof of any carrier, or group or
17 groups of carriers wholly within any State), which is hereby
18 forbidden and declared to be unlawful, it shall prescribe the
19 rate, fare, or charge, or the maximum or minimum, or maxi-
20 mum and minimum, thereafter to be charged, and the clas-
21 sification, regulation, or practice thereafter to be observed,
22 in such manner as, in its judgment, will remove such ad-
23 vantage, preference, prejudice, discrimination, or burden:
24 *Provided*, That upon the filing of any petition authorized
25 by the provisions of paragraph (3) hereof to be filed by

1 the carrier concerned, the Commission shall forthwith insti-
2 tute an investigation as aforesaid into the lawfulness of such
3 rate, fare, charge, classification, regulation, or practice
4 (whether or not theretofore considered by any State agency
5 or authority and without regard to the pendency before any
6 State agency or authority of any proceeding relating thereto)
7 and shall give special expedition to the hearing and decision
8 therein.”

9 (b) Section 13 of the Interstate Commerce Act, as
10 amended, is amended by inserting after paragraph (4)
11 thereof a new paragraph (5) as follows:

12 “(5) In any proceeding before the Commission in-
13 volving an investigation of or authorization or permission for
14 a general adjustment in rates, fares, or charges, or any of
15 them, of carriers subject to this part for the transportation
16 of property or passengers, or both, in interstate commerce
17 throughout, or substantially throughout, the United States,
18 or one or more of the three major rate classification terri-
19 tories thereof (Official, Western, or Southern), any such
20 carrier or carriers parties thereto may by petition seek
21 authority or permission of the Commission for a comparable
22 adjustment of rates, fares, or charges for the transportation
23 of like property or passengers wholly within an individual
24 State or individual States. If, in such proceeding, the Com-
25 mission finds (as it is hereby authorized to do) that au-

1 thorizing or permitting an adjustment in interstate rates,
2 fares, or charges without authorizing or permitting a com-
3 parable adjustment in intrastate rates, fares, or charges would
4 cause, or create a circumstance of, advantage, preference,
5 prejudice, discrimination or burden declared in paragraph
6 (4) of this section to be unlawful, the Commission shall,
7 incident to any adjustment it may authorize or permit in
8 such interstate rates, fares, or charges, authorize or permit
9 a comparable adjustment in such intrastate rates, fares, or
10 charges. Pursuant to such authorization the said carrier
11 or carriers, upon making any adjustment so authorized or
12 permitted by the Commission in such interstate rates, fares,
13 or charges may without further authority make a comparable
14 adjustment in such intrastate rates, fares, or charges, and
15 adjustments so made in intrastate rates, fares, or charges
16 shall be observed while continued in effect by the said
17 carrier or carriers, the law of any State or the decision or
18 order of any State authority to the contrary notwithstand-
19 ing.”

20 SEC. 4. The Interstate Commerce Act, as amended, is
21 amended by inserting after section 13 thereof a new section
22 13a as follows:

23 “SEC. 13a. A carrier or carriers subject to this part, if
24 their rights with respect to the discontinuance or change,
25 in whole or in part, of the operation or service of any train

1 or ferry engaged in the transportation of passengers or prop-
2 erty in interstate or foreign commerce, or of the operation
3 or service of any station, depot or other facility where
4 passengers or property are received for transportation in
5 interstate or foreign commerce, are subject to any provision
6 of the constitution or statutes of any State or any regulation
7 or order of (or are the subject of any proceeding pending
8 before) any court or an administrative or regulatory agency
9 of any State, shall be required prior to filing with the Com-
10 mission to mail to the Governor of each State in which such
11 train, ferry, station, depot or other facility is operated, and
12 post in every station, depot or other facility directly affected
13 thereby, notice at least thirty days in advance of any such
14 proposed discontinuance or change. The carrier or carriers
15 filing such notice may discontinue or change any such opera-
16 tion or service pursuant to such notice except as otherwise
17 ordered by the Commission pursuant to this section, the
18 laws or constitution of any State, or the decision or order
19 of, or the pendency of any proceeding before, any court or
20 State authority to the contrary notwithstanding. Upon the
21 filing of such notice the Commission shall have authority
22 during said thirty days' notice period, either upon complaint
23 or upon its own initiative without complaint, to enter upon an
24 investigation of the proposed discontinuance or change.
25 Upon the institution of such investigation, the Commission,

1 by order served upon the carrier or carriers affected thereby
2 at least ten days prior to the day on which such discontinu-
3 ance or change would otherwise become effective, may
4 require such train or ferry to be continued in operation or
5 service, in whole or in part, pending hearing and decision in
6 such investigation, but not for a longer period than four
7 months beyond the date when such discontinuance or change
8 would otherwise have become effective. If, after hearing in
9 such investigation, whether concluded before or after such
10 discontinuance or change has become effective, the Com-
11 mission finds that the operation or service of such train or
12 ferry is required by public convenience and necessity and
13 that such operation or service will not result in a net loss
14 therefrom to the carrier or carriers and will not otherwise
15 unduly burden interstate or foreign commerce, the Com-
16 mission may by order require the continuance or restoration
17 of operation or service of such train or ferry, in whole or
18 in part, for a period not to exceed one year from the date of
19 such order. The provisions of this section shall not supersede
20 the laws of any State or the orders or regulations of any
21 administrative or regulatory body of any State applicable
22 to such discontinuance or change unless notice as in this
23 section provided is filed with the Commission. On the ex-
24 piration of an order by the Commission after such investiga-
25 tion requiring the continuance or restoration of operation or

1 service, the jurisdiction of any State as to such discontinuance
2 or change shall no longer be superseded unless the procedure
3 provided by this section shall again be invoked by the carrier
4 or carriers.”

5 SEC. 5. Section 15a of the Interstate Commerce Act.
6 as amended, is amended by inserting after paragraph (2)
7 thereof a new paragraph (3) as follows:

8 “(3) In a proceeding involving competition between
9 carriers of different modes of transportation subject to this
10 Act, the Commission, in determining whether a rate is lower
11 than a reasonable minimum rate, shall consider the facts
12 and circumstances attending the movement of the traffic by
13 the carrier or carriers to which the rate is applicable. Rates
14 of a carrier shall not be held up to a particular level to
15 protect the traffic of any other mode of transportation, giv-
16 ing due consideration to the objectives of the national trans-
17 portation policy declared in this Act.”

18 SEC. 6. The Interstate Commerce Act, as amended, is
19 hereby amended by inserting immediately after section 20c
20 thereof the following new section:

21 “SEC. 20d. (1) It is the purpose of this section to aid
22 common carriers by railroad subject to this part in rendering
23 proper transportation service to the public by providing tem-
24 porary financial assistance to them in obtaining funds to fi-
25 nance or refinance the acquisition or construction of equip-

1 ment or additions and betterments for use in transportation
2 service and in obtaining funds needed for operating expenses,
3 working capital, and interest on existing obligations, all to
4 the end of fostering the preservation and development of a
5 national transportation system adequate to meet the needs of
6 the commerce of the United States, of the postal service,
7 and national defense.

8 “(2) In order to carry out the purpose declared in this
9 section, the Commission, upon terms and conditions pre-
10 scribed by it and consistent with the provisions of this sec-
11 tion, may guarantee any lender, or trustee under a trust in-
12 denture or agreement for the benefit of the holders of any
13 securities issued thereunder, by commitment to purchase,
14 agreement to share losses, or otherwise, against loss of prin-
15 cipal or interest on any loan, discount, or advance, or on
16 any commitment in connection therewith, which may be
17 made for the purposes set forth in this section, except that
18 there shall be no guarantee of a loan to be used in reduction
19 of the principal of an obligation other than in connection
20 with the refinancing of an equipment obligation: *Provided,*
21 That in no event shall the aggregate of all loans guaranteed
22 by the Commission, including unpaid interest, exceed
23 \$700,000,000, of which no more than \$150,000,000 may be
24 loans for operating expenses and interest on existing
25 obligations.

1 “(3) Any such carrier may, prior to December 31,
2 1960, make application to the Commission, in such form as
3 the Commission may prescribe, requesting guaranty by the
4 Commission as herein authorized and setting forth the amount
5 and term of the loan to be guaranteed; the purpose of the
6 loan and the use to which the proceeds therefrom will be
7 applied; the inability of the applicant to obtain such funds
8 on reasonable terms without such guaranty; the character
9 and value of the security, if any, that the applicant will
10 pledge as collateral for the loan; and that the loan is neces-
11 sary or appropriate to effectuate the purpose of this section.
12 The application shall be accompanied by statements showing
13 in detail such facts as the Commission may require with
14 regard to the situation of the applicant. The Commission
15 shall give preference to and expedite the consideration of
16 any such application.

17 “(4) No guaranty shall be made under this section—

18 “(A) unless the Commission is of the opinion that
19 the proposed loan is necessary or appropriate to effectu-
20 ate the purpose of this section;

21 “(B) unless the Commission is of the opinion that
22 without such guaranty the applicant carrier would be
23 unable to obtain necessary funds, on reasonable terms,
24 for the purposes for which the loan is sought;

1 “(C) if the loan involved is at a rate of interest
2 which, in the judgment of the Commission, is unreason-
3 ably high, or if the terms of such loan permit full repay-
4 ment more than fifteen years after the date thereof;

5 “(D) unless the Commission is of the opinion that
6 the prospective earning power of the applicant carrier,
7 together with the character and value of the security
8 pledged, if any, furnish reasonable assurance of the ap-
9 plicant’s ability to repay the loan within the time fixed
10 therefor and reasonable protection to the United States;

11 “(E) unless the Commission is of the opinion that
12 the applicant carrier is not in need of reorganization of
13 its capital structure;

14 “(F) unless the applicant carrier agrees that it will
15 declare no dividends on its capital stock as long as the
16 loan remains unpaid.

17 “(5) The Commission may consent to the modification
18 of the provisions as to rate of interest, time of payment of
19 interest or principal, security, if any, or other terms and
20 conditions of any guaranty which it shall have entered into
21 pursuant to this section, or the renewal or extension of any
22 such guaranty, whenever the Commission shall determine it
23 to be equitable to do so.

24 “(6) Payments required to be made as a consequence of
25 any guaranty by the Commission pursuant to the provisions

1 of this section shall be made by the Secretary of the Treasury
2 from funds hereby authorized to be appropriated in such
3 amounts as may be necessary for the purpose of carrying out
4 the provisions of this section.

5 “(7) The Commission shall prescribe and collect a
6 guaranty fee in connection with each loan guaranteed under
7 this section. Such fees shall not exceed such amounts as the
8 Commission estimates to be necessary to cover the admin-
9 istrative costs in carrying out the provisions of this section.
10 Sums realized from such fees shall be deposited in the Treas-
11 ury as miscellaneous receipts.

12 “(8) (a) To permit it to make use of such expert advice
13 and services as it may require in carrying out the provisions
14 of this section, the Commission may use available services
15 and facilities of departments and other agencies and instru-
16 mentalities of the Government, with their consent and on a
17 reimbursable basis.

18 “(b) Departments, agencies, and instrumentalities of
19 the Government shall exercise their powers, duties, and
20 functions in such manner as will assist in carrying out the
21 objectives of this section.

22 “(9) Administrative expenses under this section shall
23 be paid from appropriations made to the Commission for
24 administrative expenses.

25 “(10) Except with respect to such applications as may

1 then be pending, the authority granted by this section shall
2 terminate at the close of December 31, 1960: *Provided*,
3 That its provisions shall remain in effect thereafter for the
4 purposes of guaranties made by the Commission.”

5 SEC. 7. (a) Clause (6) of subsection (b) of section
6 203 of the Interstate Commerce Act, as amended, is amended
7 by striking out the semicolon at the end thereof and
8 inserting in lieu thereof a colon and the following: “*Pro-*
9 *vided*, That the words ‘property consisting of ordinary
10 livestock, fish (including shellfish), or agricultural (in-
11 *cluding horticultural) commodities (not including manu-*
12 *factured products thereof)’ as used herein shall include*
13 *property shown as ‘Exempt’ in the ‘Commodity List’ in-*
14 *corporated in ruling numbered 107, March 19, 1958, Bureau*
15 *of Motor Carriers, Interstate Commerce Commission, but*
16 *shall not include property shown therein as ‘Not exempt’:*
17 *Provided further, however, That notwithstanding the pre-*
18 *ceding proviso the words ‘property consisting of ordinary*
19 *livestock, fish (including shellfish), or agricultural (includ-*
20 *ing horticultural) commodities (not including manufactured*
21 *products thereof)’ shall not be deemed to include frozen*
22 *fruits, frozen berries, or frozen vegetables and shall be deemed*
23 *to include cooked or uncooked (including breaded) fish or*
24 *shellfish, when frozen or fresh;”.*

25 (b) Unless otherwise specifically indicated therein, the

1 holder of any certificate or permit heretofore issued by the
2 Interstate Commerce Commission, or hereafter so issued
3 pursuant to an application filed on or before the date on
4 which this section takes effect, authorizing the holder thereof
5 to engage as a common or contract carrier by motor vehicle
6 in the transportation in interstate or foreign commerce of
7 property made subject to the provisions of part II of the
8 Interstate Commerce Act by paragraph (a) of this section,
9 over any route or routes or within any territory, may without
10 making application under that Act engage, to the same
11 extent and subject to the same terms, conditions and limi-
12 tations, as a common or contract carrier by motor vehicle,
13 as the case may be, in the transportation of such property,
14 over such route or routes or within such territory, in inter-
15 state or foreign commerce.

16 (c) Subject to the provisions of section 210 of the
17 Interstate Commerce Act, if any person (or its predecessor
18 in interest) was in bona fide operation on January 1, 1958,
19 over any route or routes or within any territory, as a com-
20 mon, contract, or exempt carrier engaged in the transpor-
21 tation of property by motor vehicle made subject to the pro-
22 visions of part II of that Act by paragraph (a) of this sec-
23 tion, in interstate or foreign commerce, and has so operated
24 since that time (or if engaged in furnishing seasonal service
25 only, was in bona fide operation on January 1, 1958, dur-

1 ing the season ordinarily covered by its operations and has
2 so operated since that time), except in either instance as
3 to interruptions of service over which such applicant or its
4 predecessor in interest had no control, the Interstate Com-
5 merce Commission shall without further proceedings issue a
6 certificate or permit, as the case may be, authorizing such
7 operations if application therefor is made to the said Com-
8 mission as provided in part II of the Interstate Commerce
9 Act and within one hundred and twenty days after the date
10 on which this section takes effect. Pending the determina-
11 tion of any such application, the continuance of such opera-
12 tion without a certificate or permit shall be lawful. Any car-
13 rier which on the date this section takes effect is engaged in
14 an operation of the character specified in the foregoing pro-
15 visions of this paragraph, but was not engaged in such opera-
16 tion on January 1, 1958, may under such regulations as the
17 Interstate Commerce Commission shall prescribe, if applica-
18 tion for a certificate or permit is made to the said Commis-
19 sion within one hundred and twenty days after the date on
20 which this section takes effect, continue such operation with-
21 out a certificate or permit pending the determination of such
22 application in accordance with the provisions of part II of
23 the Interstate Commerce Act.

24 SEC. 8. Subsection (c) of section 203 of the Interstate
25 Commerce Act, as amended, is amended by striking out

1 the period at the end thereof and inserting in lieu thereof
2 the following: "nor shall any person in any other commer-
3 cial enterprise transport property by motor vehicle in inter-
4 state or foreign commerce unless such transportation is inci-
5 dental to, and in furtherance of, a primary business enter-
6 prise (other than transportation) of such person."

Passed the Senate June 11, 1958.

Attest:

FELTON M. JOHNSTON,

Secretary.

AN ACT

To amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 16, 1958

Ordered printed as passed

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued June 19, 1958
For actions of June 18, 1958
85th-2d, No. 100

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HIGHLIGHTS: Senate committee reported bills to authorize study of humane slaughter methods; extend special livestock loan authority; and reduce allotments for 2nd crop of tobacco grown on allotment in one year. House subcommittee ordered reported bill to authorize training for Federal employees at outside facilities. Conferees agreed to file report on mutual security authorization bill.

SENATE

1. HUMANE SLAUGHTER. The Agriculture and Forestry Committee reported with amendments H. R. 8308, to require the use of humane methods of slaughter of livestock and poultry (S. Rept. 1724) (p. 10429-30). The Daily Digest reported that the substitute amendment would provide for a study of this subject by the Department and a report to Congress on its finding within 2 years (pp. D557-8).
2. LIVESTOCK LOANS. The Agriculture and Forestry Committee reported with amendment H. R. 11424, to extend for 2 years (through July 14, 1961) certain authority of the Secretary for special livestock loans (S. Rept. 1723). p. 10429
3. TOBACCO. The Agriculture and Forestry Committee reported without amendment H. R. 11058, to reduce the acreage allotments of tobacco farmers who harvest more than one crop of tobacco in a year from the same acreage (S. Rept. 1725). p. 10430
4. SURPLUS FOODS. The Agriculture and Forestry Committee reported without amendment H. R. 12164, to permit the donation of surplus foods to nonprofit summer camps for children without reference to the number of needy children (S. Rept. 1726). p. 10430

5. TAXES. Began debate on H. R. 12695, the tax rate extension bill, with discussion of the economic situation. pp. 10447-79
- 6. WATERSHEDS. The Agriculture and Forestry Committee approved watershed projects at Canoe Creek, Ky., and Wild Rice Creek, N. D. and S. D. p. D558
7. TRANSPORTATION. Sen. Neuberger inserted an article, "Outside Chance Seen for Halting Federal Transportation Excises." pp. 10445-6
Sen. Smathers inserted a statement by the American Trucking Ass'n asserting that the highway users were paying more than their fair share for the construction of highways. pp. 10480-3
8. STATEHOOD. Sen. Church inserted an editorial urging statehood for Alaska. p. 10479
9. TEXTILES. Sen. Thurmond urged quota limitations on the importation of types of textile goods from abroad. pp. 10479-80
10. VEGETABLES. Sen. Yarborough commended the 1959 Senate salad, which included shrimp, escarole, and green onions from Texas, and concluded that "Texas farmers and fishermen produce virtually every ingredient for delicious salad." p. 10483
11. PERSONNEL ETHICS. Sen. Morse inserted an editorial, "On Setting An Example," and discussed the ethics of the administration. pp. 10483-5
12. RECLAMATION. Both Houses received from the Interior Department notice that an adequate soil survey and land classification had been made of the Crooked River project, Ore., and that these lands may be irrigated. pp. 10429, 10536
Both Houses received reports from the Interior Department of two project proposals under the Small Reclamation Projects Act of 1956, in Geortetown, Calif., and East Nicolaus, Calif. pp. 10429, 10536

HOUSE

13. PERSONNEL. A subcommittee of the Post Office and Civil Service Committee ordered reported with amendment S. 385, to authorize the training of Federal employees at public or private facilities. p. D561
14. TRANSPORTATION. The Interstate and Foreign Commerce Committee reported with amendment H. R. 12832, to amend the Interstate Commerce Act so as to strengthen and improve the national transportation system (H. Rept. 1922).
~~p. 10537~~
A subcommittee of the Interstate and Foreign Commerce Committee ordered reported with amendment H. R. 8742, to provide a 2-year statute of limitations on actions involving transportation of property and passengers of the U. S. Government. p. D561
15. FEDERAL-STATE RELATIONS. The Rules Committee reported a resolution for consideration of H. R. 3, to establish rules of interpretation governing questions of the effect of acts of Congress on State laws. p. 10537
16. SURPLUS PROPERTY. The Government Operations Committee reported with amendment S. 2752, to modify procedures for submitting proposed surplus property disposals to the Attorney General (H. Rept. 1920). p. 10537

TRANSPORTATION ACT OF 1958

R E P O R T

OF THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

ON

H. R. 12832

TOGETHER WITH

SUPPLEMENTAL VIEWS



SUBMITTED BY MR. HARRIS, CHAIRMAN

JUNE 18, 1958.—Committed to the Committee of the Whole House
on the State of the Union and ordered to be printed

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1958

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TRANSPORTATION ACT OF 1958

JUNE 18, 1958.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HARRIS, from the Committee on Interstate and Foreign Commerce, submitted the following

R E P O R T

[To accompany H. R. 12832]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 12832) to amend the Interstate Commerce Act so as to strengthen and improve the national transportation system, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

Page 8, strike out lines 4, 5, and 6, and in line 7 strike out "any of them,".

Page 8, line 12, strike out the comma after "train" and insert "or"; and strike out the comma after "ferry".

Page 8, line 13, strike out "station, depot or other facility".

Page 8, line 14, strike out "directly affected" and insert in lieu thereof "served".

Page 9, line 6, strike out the comma after the word "train" and insert "or"; and strike out the comma after "ferry" and strike out "station, depot, or other facility".

Page 9, line 14, strike out the comma after "train" and insert "or"; and strike out the comma after "ferry" and strike out "station, depot, or other facility".

Page 9, line 20, strike out the comma after "train" and insert "or"; and strike out the comma after "ferry" and strike out "station, depot, or other facility".

Page 12, line 2, strike out "or" and after the word "vegetables" insert a comma and the following: ["coffee, tea, cocoa or hemp, and wool imported from any foreign country or wool, cleaned or seoured, wool tops and noils, or wool waste, carded but not spun, woven or knitted".

PURPOSE OF THE BILL

The purpose of this bill is to amend the Interstate Commerce Act in order to strengthen and improve our Nation's common carrier surface transportation system so that it may better fulfill its role in meeting the transportation needs of the Nation's expanding economy and the requirements of national defense.

This purpose is accomplished through five amendments:

1. Section 2 (adding a new part V to the act) provides a method of temporary financial assistance to encourage railroads to reinstitute their presently suspended capital improvement and maintenance programs, and thus stimulate reemployment of labor, and the purchase of materials, equipment, and supplies. The Interstate Commerce Commission is authorized, to March 31, 1961, to guarantee, in whole or in part, loans maturing within 15 years made to carriers by public or private financial institutions where the proceeds are to be used for capital expenditures, including additions and betterments, or for maintenance of road and equipment. Where the proceeds are for purposes of maintenance, the guaranty may not exceed 50 percent of the amount charged for maintenance in the preceding year, and it is unlawful for dividends to be declared during the period of the guaranty.

2. Sections 3 and 4 (amending sec. 1 and adding a new sec. 13a to the act) permit railroads, at their option, to have the Interstate Commerce Commission, rather than State commissions, pass upon discontinuance or change in the operation of any train or ferry, where such are operated on a line of railroad not located wholly within a single State.

3. Section 5 (amending sec. 15a of the act) adds a new paragraph to guide the Commission in competitive rate cases.

4. Section 6 (amending sec. 203 (b) (6) of the act) freezes the so-called agricultural exemption from motor-carrier regulation by the Commission to the present list of exemptions, except for a roll-back on frozen fruits, frozen berries, frozen vegetables, coffee, tea, cocoa, hemp, wool imports, and certain categories of domestic wool (i. e., these articles would no longer be exempt).

5. Section 7 (amending sec. 203 (c) of the act) makes it clear that "private carriage" involving pseudo "buy-and-sell" techniques is subject to regulation. There is no change affecting any private carrier transportation where such transportation is incidental to or in furtherance of a primary business enterprise (other than transportation).

BACKGROUND

The instant bill is the culmination of some years' consideration by the committee of problems in the surface transportation field and of various legislative proposals advanced for meeting them. The committee's Subcommittee on Transportation and Communications since the 1st session of the 84th Congress has continually conducted hearings on the overall situation, on proposals affecting general transport policy, or on proposals for changing specific statutory language to meet special circumstances.

In the fall of 1955 the subcommittee reconvened after the adjournment of the first session to have presented to it an explanation from the

members of the Presidential Advisory Committee on Transport Policy and Organization of its report to the President of April 18, 1955. From April through June 1956, the subcommittee conducted hearings on H. R. 6141, a bill submitted by the Department of Commerce to carry out the Advisory Committee recommendations, and on other related bills before the committee. In the spring of 1957, the subcommittee had further hearings on 15 bills to carry out certain legislative recommendations of the Interstate Commerce Commission (9 of which already have been reported and become Public Law), and upon 10 other bills in the surface transportation field. In April and May of this year, the subcommittee again has been in practically continuous session on proposals to strengthen common carrier surface transportation, some of them restatements of those considered earlier, and some new legislation arising from the drastic effects of the recession upon such carriers.

Over the years, the Nation's demand for transportation service has steadily grown until it is now estimated that the intercity freight traffic of the United States is some $1\frac{1}{2}$ trillion ton-miles. At 650 billion ton-miles annually, the railroads are doing more than one and a half times what they did even in their best years of the 1920's, and twice what they did in the years preceding World War II. Motor vehicle ton-miles at 240 billion are 4 times prewar, inland waterways at 220 billion are double prewar, and oil pipeline ton-miles at 230 billion are 4 times prewar. The totals, large as they are, take no account of coastwise shipping including heavy oil traffic, or of equivalent energy movement by our vast network of natural gas pipelines or electric transmission lines.

Distribution of intercity freight traffic in the United States ¹

[Millions of ton-miles]

Year	Railroads ²	Motor-trucks ³	Great Lakes ⁴	Rivers and canals	Oil pipelines	Air carriers	Total
1939.....	338,850	52,821	76,312	19,937	55,602	12	543,534
1940.....	379,201	62,043	95,645	22,412	59,277	14	618,592
1941.....	481,756	81,363	113,639	26,815	68,428	19	772,020
1942.....	645,422	59,896	122,167	26,398	75,087	34	929,004
1943.....	734,829	56,784	115,346	26,306	97,867	53	1,031,185
1944.....	746,912	58,264	118,769	31,386	132,864	71	1,088,266
1945.....	690,809	66,948	113,028	29,709	126,530	91	1,027,115
1946.....	602,069	81,992	96,022	27,951	95,727	93	903,854
1947.....	664,523	102,095	112,165	34,549	105,161	158	1,018,651
1948.....	647,267	116,045	118,707	⁵ 43,139	119,597	223	1,044,978
1949.....	534,694	126,636	97,503	41,893	114,916	235	915,877
1950.....	596,940	172,860	111,687	51,657	129,175	318	1,062,637
1951.....	655,353	188,012	119,984	⁵ 62,232	152,115	379	1,178,075
1952.....	623,373	194,607	104,530	63,837	157,502	415	1,144,264
1953.....	614,199	217,163	127,883	⁵ 75,056	169,884	413	1,204,098
1954.....	556,557	214,626	91,175	⁵ 82,504	179,203	397	1,124,462
1955.....	631,385	226,188	118,845	97,663	203,244	481	1,277,806
1956 ⁶	655,891	253,751	110,665	109,308	229,959	563	1,360,137
1957 ⁷	627,000	260,000	112,900	109,000	233,200	600	1,342,700

¹ Includes intercity freight traffic of private as well as contract and common carriers, except coastwise and intercoastal traffic.

² Ton-miles of freight, express, and mail of class 1, 11, and III line-haul railways and electric railways.

³ Highway ton-miles include movements between cities and between rural areas and urban areas; rural-to-rural movements, city deliveries and city movements to or from contiguous suburbs are omitted.

⁴ Includes Canadian and overseas traffic on the Great Lakes.

⁵ New coverage accounted for increases over the preceding year of 2.6 billion ton-miles in 1948, 4.3 billion in 1951, 6.4 billion in 1953, and 6.7 billion in 1954. Thus, the table indicates a greater increase in traffic on rivers and canals in recent years than has actually occurred.

⁶ Preliminary.

⁷ Estimate.

Source: Interstate Commerce Commission; Corps of Engineers, U. S. Army, May 1958.

Although it is thus evident that all forms of transportation in absolute terms have shared in the greater demands for transportation, it is clear that the various modes have not participated equally in relative terms in their competition for this increased total volume. The following table portrays the drop during the past 20 years in the percentage of total traffic carried by the regulated railroads.

Distribution of intercity freight traffic in the United States

[Percentage distribution]

Year	Railroads ¹	Motor-trucks ²	Great Lakes ³	Rivers and canals	Oil pipe-lines	Air carriers	Total
1939	62.4	9.7	14.0	3.7	10.2		100.0
1940	61.3	10.0	15.5	3.6	9.6		100.0
1941	62.4	10.5	14.7	3.5	8.9		100.0
1942	69.5	6.5	13.1	2.8	8.1		100.0
1943	71.3	5.5	11.2	2.5	9.5		100.0
1944	68.6	5.4	10.9	2.9	12.2		100.0
1945	67.3	6.5	11.0	2.9	12.3		100.0
1946	66.6	9.1	10.6	3.1	10.6		100.0
1947	65.3	10.0	11.0	3.4	10.3		100.0
1948	61.9	11.1	11.4	⁴ 4.1	11.5		100.0
1949	58.4	13.8	10.6	4.6	12.6		100.0
1950	56.2	16.3	10.5	4.9	12.1		100.0
1951	55.6	16.0	10.2	⁴ 5.3	12.9		100.0
1952	54.5	17.0	9.1	5.6	13.8		100.0
1953	51.0	18.1	10.6	⁴ 6.2	14.1		100.0
1954	49.5	19.1	8.1	⁴ 7.4	15.9		100.0
1955	49.4	17.7	9.3	7.7	15.9		100.0
1956 ⁵	48.2	18.7	8.2	8.0	16.9		100.0
1957 ⁶	46.7	19.4	8.4	8.1	17.4		100.0

¹ Ton-miles of freight, express, and mail of class I, II, and III line-haul railways and electric railways.

² Highway ton-miles include movements between cities and between rural areas and urban areas; rural to-rural movements, city deliveries and city movements to or from contiguous suburbs are omitted.

³ Includes Canadian and overseas traffic on the Great Lakes.

⁴ Deficit.

⁵ Preliminary.

⁶ Estimate.

While the percentage of total traffic carried by motor vehicle has increased during these years, it is apparent from the following table that the portion of such traffic carried by the regulated motor carriers has been decreasing.

Comparison of estimated intercity ton-miles of class I, II, and III intercity motor carriers of property and total motor vehicle intercity ton-miles, 1939-57

Year	Intercity ton-miles of class I, II, and III intercity carriers	Revised estimates of intercity ton-miles	Percent ton-miles of class I, II, and III intercity carriers of total (col. 2 ÷ col. 3 × 100)	Year	Intercity ton-miles of class I, II, and III intercity carriers	Revised estimates of intercity ton-miles	Percent ton-miles of class I, II, and III intercity carriers of total (col. 2 ÷ col. 3 × 100)
(1)	(2)	(3)	(4)	(1)	(2)	(3)	(4)
	<i>Billions</i>	<i>Billions</i>			<i>Billions</i>	<i>Billions</i>	
1939	19.646	52.821	37.19	1949	47.891	126.636	37.82
1940	20.683	62.043	33.34	1950	65.648	172.860	37.98
1941	26.835	81.363	32.98	1951	72.292	188.012	38.45
1942	28.083	59.896	46.89	1952	70.843	194.607	36.40
1943	28.768	56.784	50.66	1953	76.510	217.163	35.23
1944	27.253	58.264	46.78	1954	72.301	214.626	33.68
1945	27.289	66.948	40.76	1955	82.906	226.188	36.65
1946	30.448	81.992	37.14	1956	83.015	253.751	32.32
1947	37.693	102.095	36.92	1957 ¹	85.000	260.000	32.69
1948	46.706	116.045	40.25				

¹ Estimated.

The above two tables highlight one of the problems on which there has been extensive testimony before the subcommittee, namely, that the regulated rail and motor carriers have not been maintaining their relative position in the national transportation picture, whether as a result of the growth of other forms of transportation, of haulage by private carriers, of exemption from regulation of carriage of certain commodities, of differences in the rate of growth of the various regions of the Nation, or other reasons.

The impaired position of these surface common carriers further has been seriously aggravated during recent months by the effects of the current recession in the national economy. This is sharply shown in the following table showing comparisons in freight traffic handled by class I railroads for the months since last September, with the same period a year preceding.

Freight traffic

CARS OF REVENUE FREIGHT LOADED

	1956	1957	Percent decrease
4 weeks September.....	3,154,584	2,851,465	9.6
4 weeks October.....	3,283,944	2,919,667	11.1
5 weeks November.....	3,739,881	3,223,050	13.8
4 weeks December.....	2,640,873	2,221,239	15.9
	1957	1958	
4 weeks January.....	2,564,981	2,164,213	15.6
4 weeks February.....	2,615,819	2,108,341	19.4
5 weeks March.....	3,446,330	2,702,066	21.6
4 weeks April.....	2,695,775	2,105,459	21.9
5 weeks May.....	3,558,395	2,729,190	23.3

REVENUE TON-MILES

	1956	1957	Percent decrease
	<i>Millions</i>	<i>Millions</i>	
September.....	55,482	51,781	6.7
October.....	59,293	54,313	8.4
November.....	53,885	48,591	9.8
December.....	52,632	44,977	14.5
	1957	1958	
January.....	49,921	44,966	9.9
February.....	48,044	40,067	16.6
March.....	55,571	¹ 45,059	18.9
April.....	51,873	² 41,500	19.0

¹ Preliminary.

² Estimated.

It is further significantly reflected in comparisons of the first 4 months of 1958 with the first 4 months of 1957 in revenues, rate of return, and net income.

Operating revenues, class I railways, United States

<i>Year</i>	<i>Amount</i>
1955	\$10, 106, 329, 593
1956	10, 550, 942, 886
1957	10, 491, 389, 960

Month	1957	1958	Percent decrease
January	\$856, 529, 024	\$779, 480, 990	9. 0
February	815, 996, 715	692, 782, 402	15. 1
March	904, 561, 622	767, 554, 559	15. 1
April	887, 495, 646	743, 689, 988	16. 2
Total, 4 months	3, 464, 282, 646	2, 983, 507, 940	13. 9

Net railway operating income and rate of return, class I railways, United States

Year	Amount	Return on average net property investment
		<i>Percent</i>
1955	\$1, 127, 996, 878	4. 22
1956	1, 068, 245, 689	3. 95
1957	922, 333, 564	3. 35
1958 (4 months)	121, 538, 875	¹ 2. 72

¹ 12 months ended Apr. 30.

Month	1957	1958	Percent decrease
January	\$58, 524, 382	\$31, 736, 335	45. 8
February	65, 835, 145	8, 897, 266	86. 5
March	90, 019, 081	44, 004, 298	51. 1
April	81, 286, 885	36, 900, 978	54. 6
Total, 4 months	295, 635, 763	121, 538, 875	58. 9

NOTE.—Rate of return for year 1958 estimated at 2.5 percent.

Net income available for additions to property, reserves, dividends, etc., class I railways, United States

<i>Year</i>	<i>Amount</i>
1955	\$927, 122, 011
1956	876, 333, 430
1957	737, 430, 947

Months	1957	1958	Percent decrease
January	\$43, 888, 945	\$16, 735, 372	(1) 61. 9
February	47, 508, 554	¹ 10, 701, 093	
March	71, 671, 369	24, 535, 949	
April ²	61, 000, 000	16, 000, 000	73. 8
Total, 4 months ²	224, 000, 000	48, 000, 000	78. 6

¹ Deficit.² Preliminary.

The motor common and contract carriers also have experienced a decline in 1958, as shown by the following table comparing the first quarter with first quarter 1957 in revenues, expenses, mileage, and tonnage.

Class I and II motor carriers of property reporting to Interstate Commerce Commission

[In thousands]

	All reporting	Common— general freight	Local cartage	Common— other than general	Contract
Revenues:					
1st quarter 1958.....	\$1, 106, 289	\$696, 726	\$86, 739	\$206, 337	\$76, 487
1st quarter 1957.....	\$1, 152, 229	\$714, 160	\$89, 984	\$269, 462	\$78, 621
Percent.....	¹ 4.0	¹ 2.4	¹ 3.6	¹ 8.6	¹ 2.7
Expenses:					
1st quarter 1958.....	\$1, 090, 340	\$693, 123	\$87, 691	\$243, 702	\$74, 821
1st quarter 1957.....	\$1, 117, 281	\$693, 426	\$89, 243	\$259, 366	\$75, 245
Percent.....	¹ 1.6		¹ 1.7	¹ 6.0	¹ 0.06
Mileage:					
1st quarter 1958.....	1, 725, 562	953, 794	32, 083	561, 349	178, 829
1st quarter 1957.....	1, 889, 233	1, 013, 616	33, 658	653, 712	188, 245
Percent.....	¹ 8.7	¹ 6.0	¹ 4.7	¹ 0.141	¹ 5.0
Tonnage:					
1st quarter 1958.....	75, 685	33, 343	2, 755	30, 688	8, 899
1st quarter 1957.....	80, 148	36, 236	2, 903	31, 610	9, 398
Percent.....	¹ 5.6	¹ 8.0	¹ 5.1	¹ 2.9	¹ 5.3

¹ Decrease.

While the above data well may be sufficient to illustrate the sore straits into which our common carrier surface transportation system has fallen, it is pertinent to include a breakdown of the national picture to show the extremely difficult situation in which the eastern railroads find themselves. The financial plight of these railroads is shown in the following tables:

Operating revenues, class I railways, eastern district (excluding Pocahontas region)

Year	Amount
1955.....	\$3, 737, 048, 538
1956.....	3, 936, 189, 534
1957.....	3, 876, 967, 893

Month	1957	1958	Percent decrease
January.....	\$324, 646, 312	\$279, 763, 912	13. 8
February.....	311, 571, 880	243, 641, 880	21. 8
March.....	344, 261, 191	278, 399, 261	19. 1
April.....	332, 412, 408	263, 626, 547	20. 7
Total, 4 months.....	1, 312, 891, 790	1, 065, 431, 601	18. 8

*Net railway operating income and rate of return, class I railways, eastern district
(excluding Pocahontas region)*

Year	Amount	Return on average net property investment
1955.....	\$358,295,153	3.63
1956.....	328,211,952	3.34
1957.....	240,389,994	2.44
1958 (4 months).....	¹ 16,514,349	(¹)

Month	1957	1958	Percent decrease
January.....	\$14,755,674	¹ \$726,239	(¹)
February.....	19,943,071	¹ 18,226,851	(¹)
March.....	30,146,691	2,989,047	90.1
April.....	24,156,839	¹ 550,304	(¹)
Total, 4 months.....	89,002,276	¹ 16,514,349	(¹)

¹ Deficit.

*Net income available for additions to property, reserves, dividends, etc., class I
railways, eastern district (excluding Pocahontas region)*

Year	Amount
1955.....	\$238,819,039
1956.....	213,179,432
1957.....	123,896,533

Month	1957	1958	Percent decrease
January.....	\$5,129,516	¹ \$10,848,022	(¹)
February.....	9,306,053	¹ 29,193,332	(¹)
March.....	19,918,578	¹ 7,565,286	(¹)
April ²	13,750,000	¹ 10,731,000	(¹)
Total, 4 months ²	48,133,000	¹ 58,309,000	(¹)

¹ Deficit.

² Preliminary.

The financial condition of the eastern railroads, of course, is accentuated by the fact that a relatively larger part of their operations is in passenger service than generally prevails among the railroads of the South and the West. The overall passenger deficit is estimated by the Interstate Commerce Commission as now amounting to \$700 million annually. For the railroads to show any net income at all, accordingly, revenues from freight must be sufficient to offset such losses. With decline in freight traffic, the difficulty of making such offsets is accentuated, and the result is graphically shown on the drain made upon the railroads' working capital in the following statement of their position nationwide, and in the East, at the end of the first quarter 1958.

Net working capital,¹ class I railways

	United States	Eastern district excluding Potomac region)
Dec. 31, 1955.....	\$933,751,344	\$185,743,542
Dec. 31, 1956.....	683,628,933	139,120,474
Dec. 31, 1957.....	555,275,129	93,172,549
Mar. 31, 1958.....	326,432,029	² 22,637,045

¹ Current assets excluding materials and supplies, less current liabilities.

² Deficiency.

Although passenger fares have increased since the war, and the total of the general freight rate increases authorized by the Interstate Commerce Commission since the war now amounts to 107.7 percent it is obvious that the effective revenue received by the railroads has not been commensurate with such authorizations. Since 1946 the revenue per ton-mile has increased from 0.978 cents to 1.445 cents in 1957, and the revenue per passenger mile from 1.947 cents to 2.840 cents. The committee received an abundance of testimony to the effect that any amelioration of the railroad financial picture entails consideration of the losses being sustained from passenger service.

The committee is fully conscious of its responsibilities in the transportation field, and the need for the maintenance of a sound common carrier transportation system adequate for the demands of our economy and the requirements of our national defense. The committee is convinced, from the hearings and studies it has conducted for some time now that something must be done, and now must be done quickly, in the legislative field, if our common carrier transportation system is to be preserved in a position where it can continue to meet what is required of it. The committee accordingly believes that five changes in existing legislation should be made at this time. The problems, proposals, and committee recommendations on each, are discussed under the five heads following:

FINANCIAL ASSISTANCE TO RAILROADS

(Sec. 2 adding a new Pt. V to the Interstate Commerce Act)

This section is the outgrowth of extensive hearings held on H. R. 11527, a bill introduced March 20 by the chairman, to provide a temporary program of assistance to enable common carriers subject to the act to finance improvements and developments.

The decline in traffic which started last fall and has continued in substantial magnitude has appreciably affected the current cash position of many railroad carriers. As a result, they perforce have had to suspend their authorized programs for additions and betterments to, or expansion of, their carrier properties and to defer purchase of equipment. This naturally, has had a profound effect not only upon the railroads direct employment, but also upon the industries supplying the railroads.

Indeed, the following figures for railroad employment show a drop of 60,000 since the first of the year, to a level at mid-May of 180,000 less than a year ago, the lowest railroad employment since 1898.

Average number of employees, class I line-haul railroads

	1957	1958
Mid-month:		
January.....	995,270	884,114
February.....	987,125	860,110
March.....	987,800	840,321
April.....	991,389	828,819
May.....	1,003,429	824,813
Average for year:		
1955.....	1,058,216	-----
1956.....	1,042,664	-----
1957.....	986,001	-----

While the worsening situation is true with respect to the railroads as a whole, some railroads particularly in the East, are in grave economic difficulties, and the committee had testimony to the effect that it is doubtful whether some of them will be able to avoid going into receivership during the year. In the midst of the uncertainty surrounding predictions of the depth and duration of the recession, this situation is especially alarming, for were some of the major railroads to go into receivership, the resulting impact would be serious not only to the industry but to the country as well.

With the financial assistance provided by this bill, the committee has been reliably informed that many carriers immediately would reinstitute already authorized capital expenditure programs, amounting to millions of dollars. Such action, without further delay for the drawing board or blueprint stage, straightaway would provide substantial reemployment by the railroad industry, and through the purchase of materials, equipment, and supplies, would afford a great stimulus to the industries supplying them. This stimulus is extremely important and timely right at this moment.

This financial assistance program is to be administered by the Interstate Commerce Commission. Inasmuch as the Commission under existing law necessarily must approve the underlying securities, here subject to being guaranteed, the committee believes that the Commission is in the best position simultaneously to pass upon the guaranty under the clear-cut standards set up in the bill. It has seemed to the committee that the promptness with which any such financial assistance is rendered is a perquisite of the first order, for the impetus which the reinstitution of these capital programs, the reemployment of labor, and the purchase of materials, will give is of utmost significance at this particular moment.

The bill H. R. 11527, on which hearings were held, also pertained to all common carriers subject to the act, while the bill here reported is limited to common carriers by railroad. The hearings developed some testimony from motor and water carriers as to the desirability of coverage by this new part V, but did not demonstrate any especial imperativeness or need at this time for this type of assistance.

Other changes from H. R. 11527 incorporated in the reported bill as a result of these hearings, are those of extending the time for granting the assistance from March 31, 1959, to March 31, 1961, and of extending the upper limit of the guaranty from 90 percent of the unpaid principal to 100 percent. In addition, at the urgency of a number of eastern railroads, especially those with big deferred heavy repair car programs which they need to complete before ordering any

significant amount of new equipment, the guaranty provisions have been expanded to cover loans where the proceeds are to be used for maintenance. In such instances, the amount of the guaranty is limited to not more than 50 percent of the amount charged by the carrier the preceding year for maintenance, and it is made unlawful for the carrier to declare any dividends while a guaranty is outstanding on a loan for this purpose.

ICC AUTHORITY OVER DISCONTINUANCE OF PASSENGER SERVICE

(Sec. 3, amending sec. 1 of the act, and sec. 4, adding a new sec. 13a to the act)

A major cause of the worsening railroad situation is the unsatisfactory passenger situation. Not only is the passenger end of the business not making money—it is losing a substantial portion of that produced by freight operations.

Although no specific bill was then before the committee, extensive hearings on this problem were conducted in May of this year.

The true deficit from railroad passenger service is in dispute. The Interstate Commerce Commission estimates it in the neighborhood of \$700 million a year, though it currently is conducting an investigation which involves reconsideration of its present rules governing distribution of costs between freight and passenger service. Whatever the deficit is, it is clear that it is large and constitutes a substantial burden on revenues from freight.

The president of one railroad testified that last year the railroad had net railway operating income from freight service of over \$100 million, against which it had a loss from passenger service of \$57 million; that over the past 10 years the passenger service net railway operating income deficit of \$523 million applied to a net railway operating income from freight of \$1,124 million, left it with a return of only 2.49 percent on depreciated investment; and that if the passenger service merely had broken even this return would have been 4.67 percent.

Another railroad president testified that last year it had a net income of \$8 million, which represented a profit from noncarrier operations of \$27 million, net income from freight service of \$33 million, and a loss from passenger service of \$52 million. This loss he based on the ICC distribution of costs, whereas he felt that it was closer to the \$78 million which had been estimated by an independent group.

It is obvious that in very great measure these passenger losses are attributable to commuter service. It is clear that where such necessary services cannot be made to pay their way, the interested communities have a very real interest in working out the problem. It would seem evident that if such urban or interurban commuting service must be preserved, losses incurred will have to be met in some way by the communities. It is unreasonable to expect that such service should continue to be subsidized by the freight shippers throughout the country.

There are substantial losses, however, occurring in passenger service beyond those attributable solely to commuter service. Where this passenger service—and passenger service means more than merely

transportation of passengers, and involves "head-end" service, such as baggage, mail, and express—cannot be made to pay its own way because of lack of patronage at reasonable rates, abandonment seems called for.

Under the act, the Interstate Commerce Commission has jurisdiction over the complete abandonment of a line of track. The discontinuance or change of schedules of trains (without complete abandoning of the line of track over which they operate) however, is subject to the jurisdiction of the interested States. Such local regulation of what has come to be a national problem has hampered the railroads from making some changes in their passenger train operations in line with changes in patronage, and has contributed greatly to the passenger deficit. Witnesses have not suggested that all State commissions have taken obstructive attitudes, but only that it has proved impossible to secure necessary relief in some States. The National Association of Railroad and Public Utilities Commissioners has been active in recommending a more helpful attitude on the part of its members, but the recommendations appear not to have been adopted by some of them.

Because of this delay in authorizing, or absolute refusal to authorize, discontinuance of little-used services, it is proposed to add a new section 13a to the act, whereby the railroads, at their option, may have the Interstate Commerce Commission, rather than State commissions, pass upon the discontinuance or change in the operation or service of any train or ferry. This option is limited, however, to the operation or service of a train or ferry on a line of railroad not located wholly within a single State. This limitation is contained in the bill being reported because the committee feels that the record at this time does not support the broader change in venue, requested by the railroads, which would have covered Interstate Commerce Commission jurisdiction also over operations more local in character, such as those of a branch line or other line of railroad located solely within one State.

The bill as introduced also covered the Interstate Commerce Commission passing upon discontinuance or change of the operation or service of stations, depots, or other facilities. This jurisdiction has not been included in the bill as reported, as the committee believes the record presented in its hearings does not support the need for transferring such jurisdiction from State regulatory bodies.

While the Interstate Commerce Commission, on March 19, 1956, instituted on its own motion an investigation into and concerning the deficit from passenger train and allied services, which has been the subject of prehearing and informal conferences between the Commission staff and interested parties, the committee believes that such study actively should be pursued, and pursued in cooperation with State utilities commissions, so that the Commission soon may make recommendations for appropriate action in this troublesome and burdensome field. The bill reported, accordingly, contains a direction to this effect for a report not later than June 30, 1959.

COMPETITIVE RATEMAKING

(Sec. 5, adding a new par. (3) to sec. 15a of the act)

In the past few years probably no subject has been given any more extensive hearings or attention by the committee than that of competitive ratemaking as between the different modes of transportation.

The dominant objective of the changes in transportation policy proposed by the Presidential Advisory Committee in 1955 and of the implementing legislation (H. R. 6141 and H. R. 6142) was a proposed change in the "rule of ratemaking" (contained in sec. 15a of the Interstate Commerce Act) to place "increased reliance on competitive forces of transportation in ratemaking" and restrict the Commission's jurisdiction over competitive rates. As Secretary Weeks observed to the committee:

It was believed that carrier self-interest tempered by the dictates of competitive enterprise is capable of producing a sounder rate structure than that which can be imposed by a regulatory agency.

During April, May, and June of 1956, in the hearings on these legislative proposals, the railroads vigorously supported the Advisory Committee recommendations, and the motor and water carriers as vigorously opposed them.

The essence of these recommendations subsequently was contained in H. R. 5523 and H. R. 5524, known as the "three-shall-not rule" because it declared that in determining what is less than a reasonable minimum rate, the Commission: (1) shall not consider the effect of the rate on the traffic of other carriers; (2) shall not consider the relation of the rate to the rate of any other carrier; and (3) shall not consider whether the rate is lower than necessary to meet the competition of other carriers. These bills were heard at length in the spring of 1957, with the same contention among the witnesses representing the various modes of transportation.

Further hearings on the subject of competitive ratemaking were held in April and May of this year, at which time Secretary Weeks expressed the view that "We have reconsidered the 'three-shall-not' rule and feel that it goes too far," and made an inchoate suggestion that while there should be greater competition among carriers in rate-making, unfair or destructive competition should be prevented by some sort of rule of reason similar to that employed in the Sherman Act. In both the earlier and revised recommendations, the Secretary's references to stimulation of competition encompass both competition between carriers of the same mode of transportation and competition among different modes of transportation.

In these recent hearings, the railroads again advocated substantial modification of the rule of ratemaking and the motor and water carriers urged that it be retained as it is now written in the statute.

The committee believes that each mode of transportation should have opportunity to make rates reflecting the different inherent advantages each has to offer so that the public may exercise its choice among them, cost and service both considered, in the light of the kind of transportation desires. The committee believes, however, and the national transportation policy is clear, that such ratemaking

should be regulated by the Commission to prevent unfair destructive practices on the part of any carrier or group of carriers.

It nevertheless appears that the Interstate Commerce Commission has not been consistent in the past in allowing one or another of the several modes of transportation to assert their inherent advantages in the making of rates. In 1945 in *New Automobiles in Interstate Commerce* (259 I. C. C. 475), the Commission said:

As Congress enacted separately stated ratemaking rules for each transport agency, it obviously intended that the rates of each such agency should be determined by us in each case according to the facts and circumstances attending the movement of the traffic by that agency. In other words, there appears no warrant for believing that rail rates, for example, should be held up to a particular level to preserve, a motor-rate structure, or vice versa (259 I. C. C. at p. 538).

In *A. W. Schaeffer Extension—Granite* (63 M. C. C. 247), the Interstate Commerce Commission denied an application by a common carrier by motor vehicle for authority to transport granite between various points which were being served exclusively by rail. The Commission based its denial of the application on the ground that the rail service was "reasonably adequate," that the main purpose of the witnesses who supported the application was to obtain lower rates rather than improved service and that this was not a proper basis for a grant of authority. The Supreme Court in *Schaeffer Transportation Co. et al v. U. S.* (355 U. S. 83 (1957), reversed the Commission, and in its opinion said—

To reject a motor carrier's application on the bare conclusion that existing rail service can move the available traffic, without regard to the inherent advantages of the proposed service, would give one mode of transportation unwarranted protection from competition from others.

Later in the opinion it said:

The ability of one mode of transportation to operate with a rate lower than competing types of transportation is precisely the sort of "inherent advantage" that the congressional policy requires the Commission to recognize.

The committee believes that the Commission consistently should follow the principle of allowing each mode of transportation to assert its inherent advantages, whether they be of cost or service, giving due consideration to the objectives of the national transportation policy declared in the Interstate Commerce Act. The objectives of this policy of the Congress are:

to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this Act, so administered as to recognize and preserve the inherent advantages of each; to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers; to encourage the establishment and maintenance of reasonable charges for transportation services, without unjust discriminations, undue preferences or advantages, or unfair or destructive

competitive practices; to cooperate with the several States and the duly authorized officials thereof; and to encourage fair wages and equitable working conditions; all to the end of developing, coordinating, and preserving a national transportation system by water, highway, and rail, as well as other means, adequate to meet the needs of the commerce of the United States, of the Postal Service, and of the national defense.

The committee feels, accordingly, that an amendment to the rule of ratemaking is desirable to serve as a guide to the Commission in achieving consistency in its treatment of competitive rate cases. The bill being reported proposes a new paragraph (3) to section 15a, applicable to all of the modes of transportation subject to parts I, II, III, and IV of the act, reading as follows:

In a proceeding involving competition between carriers of different modes of transportation subject to this Act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this Act.

The committee is of the opinion that the effect of this amendment will be to encourage competition between the different modes of transportation for the benefit of the shipping public. It understands that the amendment, while not having the full endorsement of all of the modes of transportation, at least is not unacceptable to any of them.

AGRICULTURAL COMMODITIES EXEMPTION

(Sec. 6, amending 203 (b) (6) of the act)

The so-called agricultural commodities exemption contained in section 203 (b) (6) of the Interstate Commerce Act provides that nothing in part II of the act (relating to the regulation of motor carriers), except certain requirements as to qualifications and maximum hours of service of employees and safety of operation or standards of equipment, shall be construed to include:

motor vehicles used in carrying property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof), if such motor vehicles are not used in carrying any other property, or passengers, for compensation; * * *

This exemption from economic regulation appears originally to have been intended to aid farmers and other producers of domestic foodstuffs by relieving them of some of the burdens of regulation so that the movement of their products from point of production to market or to processing or storage points would be facilitated. However, as a result of a series of court decisions which began in 1948 with

Interstate Commerce Commission v. Love (77 F. Supp. 63, affirmed 172 F. 2d 244), and continued through 1957 in *Frozen Food Express v. United States* (148 F. Supp. 399, affirmed 355 U. S. 6), the exemption has been extended to the transportation of commodities that have received varying degrees of commercial processing.

In *East Texas Motor Freight Lines, Inc., et al. v. Frozen Food Express, et al.* (351 U. S. 49, decided April 23, 1956), the Supreme Court, in a 5 to 4 decision, held that fresh and frozen dressed poultry are exempt agricultural commodities within the meaning of section 203 (b) (6). Of particular significance in this case was the pronouncement of the majority that—

where the commodity retains a continuing substantial identity through the processing stage we cannot say that it has been 'manufactured' within the meaning of section 203 (b) (6)—

and the further statement that the "exemption is concerned with the stage of the processing, not with the person who does it." The difficulties involved in drawing a line of distinction between agricultural commodities and "manufactured products thereof" is demonstrated by the fact that the Court was so closely divided as to the status of fresh and frozen dressed poultry.

In another case, the Supreme Court, on November 5, 1956, affirmed, without opinion, the holding of a Federal district court in *Home Transfer & Storage Co. v. United States* (141 F. Supp. 599), that frozen fruits and vegetables also come within the exemption. Significant of this trend are subsequent district court decisions holding that dried milk, dried egg powder, shelled nuts, dried fruits, and a number of other commodities are exempt.

As a consequence of these court decisions the Interstate Commerce Commission reviewed its previous rulings with respect to the exempt and the nonexempt status of other commodities, and declared many commodities to be exempt which were formerly regulated. Then, on March 19, 1958, the Bureau of Motor Carriers of the Interstate Commerce Commission issued Administrative Ruling No. 107 on agricultural exemptions in which the Bureau compiled a list of agricultural commodities showing the exempt or nonexempt status of each as decided by the courts, and by the Commission. The Bureau further went on to express an opinion as to the exempt and nonexempt status of many additional commodities. The Bureau's ruling No. 107 is set forth in appendix A to this report.

Regulated carriers are handicapped in their competition with non-regulated carriers for traffic in exempt agricultural commodities. The unregulated carriers are not subject to ICC operating authority, control, rate regulation, rules requiring equal treatment to shippers, areas and commodities, and rules requiring insurance and claims responsibility to which all regulated carriers are subjected. The nonregulated carriers can pick and choose whatever traffic they desire and establish their rates at whatever levels they wish without making them public and without considering whether the charges are reasonable or non-discriminatory, as required by regulated carriers. As a consequence, large and ever-increasing volumes of important agricultural commodities and seafood previously handled by regulated carriers, both rail and truck, have been diverted to the exempt truckers and the

diversion continues. The impact upon the regulated carriers is already serious. The removal of further classes of traffic from the regulated category is threatened by the trend of administrative and judicial determinations, expanding the scope of the exemption.

If the Supreme Court's "continuing substantial identity" test continues to be applied literally by the courts, it is conceivable that a considerable number of other commodities will be held to be exempt, such as canned fruits and vegetables which are processed at large industrial plants rather than by farmers. It is important that this trend be halted before the position of the regulated carriers is more seriously impaired. The committee, therefore, recommends a freezing, with a slight rollback, of the agricultural exemption in accordance with ruling No. 107, March 19, 1958, Bureau of Motor Carriers of the Interstate Commerce Commission. This amendment would halt further expansion of the scope of the exemption, and it would return to economic regulation the transportation of frozen fruits, frozen berries, frozen vegetables, coffee, tea, cocoa, hemp, imported wool and certain categories of domestic wool. The transportation of cooked fish or shellfish, now subject to regulation is made exempt from such regulation. It is not intended that this exemption shall apply to fish or shellfish which have been treated for preserving such as canned, smoked, salted, pickled, spiced, corned or kippered products.

Any person engaged on June 1, 1958, in trucking the aforementioned commodities which are returned to regulation by this amendment would be entitled upon application to a certificate or permit allowing him, under regulation, to continue hauling the same commodities within the same areas or between the same points.

The committee held hearings on amending the agricultural exemption provision of the Interstate Commerce Act on April 23, 24, and 25, 1958. The hearings related to H. R. 5823, a bill recommended by the Interstate Commerce Commission. The purpose of this bill was to limit the exemption from economic regulation motor vehicles engaged in the transportation of agricultural commodities, livestock and fish from the point of production to the primary market. Strong opposition was expressed by witnesses to this limitation.

The amendment reported by the committee is a compromise of opposing positions. We believe it will be of benefit to the common carriers in that the further erosion of regulated traffic will be stopped and some of the traffic now exempted from regulation will be returned to regulated carriers.

PSEUDO-PRIVATE CARRIAGE

(Sec. 7, amending sec. 203 (c) of the act)

The erosion of traffic of regulated carriers has also been caused to a considerable extent by the growth of "pseudo-private carriage" by truck. One of the subterfuges most commonly used in this type of carriage is the "buy-and-sell" arrangement, whereby fictitious bills of sale and invoices are used to make it appear that the commodities being transported by truck are those of the vehicle owner and operator and that the transportation involved is private carriage. The real business of persons engaged in this type of operation is, in fact, transportation, and the movement of goods performed by them is not in

furtherance of any primary, or bona fide business enterprise other than transportation.

In addition, businesses which use their own trucks to deliver their own merchandise, are purchasing goods at or near the final point of delivery of their own merchandise, and transporting such goods to places near their own establishments for sale to others. Such transportation is usually performed solely for the purpose of receiving compensation for the otherwise empty return of their trucks. Sometimes the purchase and sale is a bona fide merchandising venture. In other instances, prearranged plans are set up in order that the real consignee may receive transportation at a reduced cost.

This pseudo-private carriage is a subterfuge for engaging in public transportation without complying with the certificate or permit requirements of the Interstate Commerce Act. It constitutes a growing menace to shipper and carrier alike, and is not in the public interest. It is injurious to sound public transportation. It promotes discrimination between shippers and threatens the existing rate structures of regulated carriers. It makes possible the avoidance of payment of the Federal transportation of property tax, for this tax is not levied on the transportation of property owned by the carrier.

The Interstate Commerce Commission has found it most difficult to cope effectively with this problem under the present provisions of the Interstate Commerce Act. The Commission has urged the Congress for several years to make legislative changes in the act to eliminate these practices, and it drafted a bill to accomplish this objective, which was introduced as H. R. 5825, 85th Congress. That bill proposed to amend the definition of "private carrier" in section 203 (a) (17) of the act by adding a proviso thereto to the effect that any person who purchases, transports and sells property for the purpose of fostering a highway transportation business is engaging in a public transportation service and shall be subject to economic regulation by the Commission.

During the committee's hearings on H. R. 5825, many witnesses expressed the fear that if the definition of a private carrier of property by motor vehicle was changed, it would open the door to reconsideration of the concept of the "primary business" test of private carriage as enunciated by the Commission in the Lenoir Chair case (51 M. C. C. 65 (1949)) and by the United States Supreme Court in the Brooks case (*Brooks Transportation Co. v. United States* 340 U. S. 925 (1951)).

In the Brooks case, the Supreme Court recognized the so-called primary business test as the governing criterion in establishing bona fide private carriage. Under that doctrine, if transportation is performed in furtherance of the primary business of the operator, even though a charge may be made for such service, the transportation is treated as bona fide private carriage. If, however, a bona fide noncarrier business is not established, the transportation is treated as for-hire.

This doctrine has been helpful to the bona fide private carriers. They are fearful that any amendment of the definition of "private carrier of property by motor vehicle" may result in an unsettling of the "primary business" test and require them to embark upon another long series of litigation similar to that which culminated in the Brooks decision.

In the first session of the 85th Congress the Interstate Commerce Act was amended (by Public Law 85-163) by the addition of section 203 (c) which prohibits a person, except as otherwise specifically provided in the act, from engaging in any for-hire transportation business by motor vehicle in interstate or foreign commerce without a certificate or permit to authorize such transportation. This prohibition is expected to prove helpful in correcting certain abuses, but it appears that the abuses resulting from pseudo-private carriage are not adequately dealt with by section 203 (c).

Under these circumstances several witnesses recommended, and this committee favors, the further amendment to section 203 (c) of the act contained in section 7 of the reported bill. This amendment provides that no person shall, in connection with any other business enterprise, transport property by motor vehicle in interstate or foreign commerce unless such transportation is incidental to, and in furtherance of, a primary business enterprise (other than transportation) of such person. There is no intention on the part of this Committee in any way to jeopardize or interfere with bona fide private carriage, as recognized in the Brooks case.

SUPPLEMENTAL VIEWS OF MESSRS. WILLIAMS, ROBERTS, MOULDER, FLYNT, AND LOSER

This report embraces supplemental views to the committee report. We are in general agreement with most of the provisions of H. R. 12832, although we find ourselves very strongly opposed to section 4 of the bill which provides for a new section 13A to the Interstate Commerce Act.

For years we have watched the erosion of State control over the various activities and the assumption of such control by the Federal Government and by the intervention on the part of branches of the Federal Government in certain instances. In each instance reasons given for the encroachment by the Federal Government in areas usually reserved to the States has been that it is to meet some kind of emergency. While we share the views of many that the railroads of this country do face an emergency and that it is incumbent upon Congress to lend aid and assistance in solving some of the problems of the railroads, we do not believe that it has been demonstrated that there is a need at this time to strip State utility commissions of their regulatory powers in this connection over the discontinuance of intrastate train service.

It is possible that the restriction of authority on the part of State regulatory bodies would, for practical purposes, vest such discontinuances in the railroads themselves. If one public utility were permitted to discontinue service if "such operation or service will not result in a net loss therefrom," such companies would be relieved of a very important duty; namely, "to serve the public convenience and necessity."

Testimony was given during the hearings before the Committee on Interstate and Foreign Commerce which indicates that some State regulatory agencies have exercised little or no control in the matter of passenger train discontinuances and railroad station agency discontinuances. Mr. Walter McDonald of the Georgia Public Service Commission, acting as chairman of the passenger deficit committee of the National Association of Railroads and Utilities Commission since the inception of that committee in 1949, presented testimony before the Interstate Commerce Commission to the contrary. Mr. McDonald's committee refuted this statement and has submitted information showing the activities on such discontinuances for the years 1951-56 by State regulatory agencies. The State commissions, in most cases, have been alert to their responsibilities to discontinue any unused and unneeded services rendered by the railroads that are no longer required in the public interest. Two tables showing facts and figures from 1951-56 are included at this point:

Summary of passenger train discontinuances approved or denied by State commissions, 1951-56

State	1951		1952		1953		1954		1955		1956		Total	
	Approved	Denied	Approved	Denied	Approved	Denied	Approved	Denied	Approved	Denied	Approved	Denied	Approved	Denied
Alabama.....	4	2	4	0	6	0	8	2	2	2	6	2	30	8
Arizona.....	0	0	0	0	1	0	0	0	1	0	0	0	2	0
Arkansas.....	12	0	4	0	0	0	5	0	0	0	0	2	21	2
California.....	6	0	0	4	2	0	4	0	8	0	2	2	22	6
Colorado.....	2	2	4	0	8	0	4	0	4	0	4	0	26	2
Connecticut ¹	2	0	2	0	0	0	11	0	3	0	24	0	42	0
Delaware ²	2	0	0	0	0	0	2	0	0	0	4	0	8	0
Florida ²	2	0	0	0	0	0	4	0	0	0	4	0	10	0
Georgia.....	6	0	6	0	14	0	8	0	10	0	2	2	46	2
Idaho.....	0	0	2	0	4	0	2	0	4	0	6	0	18	0
Illinois ¹	23	2	28	4	20	13	19	2	2	2	8	0	100	23
Indiana ¹	3	0	8	4	18	0	8	0	10	0	15	2	62	6
Iowa.....	12	0	8	0	10	0	8	0	4	0	12	2	54	2
Kansas.....	10	2	8	2	0	4	4	0	6	2	2	8	30	18
Kentucky.....	0	0	6	0	6	0	8	0	10	0	4	2	34	2
Louisiana ²	2	0	4	0	8	0	4	0	8	0	2	0	28	0
Maine ²	0	0	0	0	2	0	2	0	4	0	4	0	12	0
Maryland ¹	8	0	2	0	2	0	2	0	0	2	2	0	16	2
Massachusetts ³														
Michigan ³	2	0	8	0	4	0	2	0	12	0	6	0	34	0
Minnesota.....	14	0	4	0	8	5	16	0	0	0	6	0	48	5
Mississippi ⁴														
Missouri.....	4	0	2	0	4	0	4	2	6	4	0	2	20	8
Montana.....	2	2	10	0	2	0	0	0	4	0	6	0	24	2
Nebraska.....	2	0	2	0	2	0	2	0	5	0	0	4	13	4
Nevada.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0
New Hampshire ²	1	0	0	0	2	0	1	0	0	0	0	0	4	0
New Jersey ³														
New Mexico.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0
New York ¹	15	0	9	0	17	2	4	1	6	0	18	45	69	48
North Carolina.....	14	0	0	2	4	0	12	0	10	0	4	0	44	2
North Dakota.....	0	0	0	0	2	0	0	2	0	0	2	0	4	2
Ohio ¹	10	6	6	2	8	2	2	0	3	0	12	2	41	12
Oklahoma ²	0	0	0	0	1	0	3	0	2	0	1	0	7	0
Oregon ²	0	0	0	0	1	0	0	0	1	0	0	0	2	0
Pennsylvania ¹	18	0	36	0	10	8	6	0	6	0	6	0	82	8
Rhode Island.....	0	0	2	0	0	0	0	0	0	0	2	0	4	0
South Carolina.....	4	0	2	0	2	0	6	0	2	0	4	0	20	0
South Dakota ²	12	0	4	0	4	0	2	0	2	0	0	0	24	0
Tennessee.....	6	0	4	2	10	0	10	0	2	2	2	0	34	4
Texas ²	10	0	9	0	5	0	12	0	12	0	11	0	59	0
Utah.....	0	0	1	0	1	0	0	0	0	0	0	0	2	0
Vermont.....	0	0	0	0	14	0	0	0	0	0	0	0	14	0
Virginia.....	12	0	4	4	4	4	16	2	6	0	6	0	48	10
Washington.....	0	0	7	0	2	0	5	0	2	0	5	0	21	0
West Virginia.....	11	1	12	6	12	3	4	5	6	0	8	0	53	15
Wisconsin.....	6	0	6	2	8	0	12	2	2	0	6	0	40	4
Wyoming.....	0	0	0	0	0	0	0	0	0	0	2	0	2	0
Total.....	237	17	214	32	228	41	222	18	165	14	208	75	1,274	197

¹ The statistics for this State include an undetermined number of commuter trains.² Denials, if any, not reported.³ Statistics not maintained by this State.⁴ No jurisdiction.

Source: Docket No. 31954, exhibit No. — (NARUC-6), witness: Walter R. McDonald.

Summary of railroad station agency discontinuances approved or denied by State commissions, 1951-1956

State	1951		1952		1953		1954		1955		1956		Total	
	Approved	Denied	Approved	Denied	Approved	Denied	Approved	Denied	Approved	Denied	Approved	Denied	Approved	Denied
Alabama.....	2	0	8	3	8	0	7	0	9	8	7	1	41	12
Arizona.....	1	0	1	0	4	0	2	0	2	0	2	0	12	0
Arkansas.....	11	0	6	0	6	0	5	0	6	1	3	2	37	3
California.....	3	0	4	0	4	2	2	1	7	0	10	0	30	3
Colorado.....	1	0	3	0	4	0	3	0	2	0	12	1	25	1
Connecticut.....	1	0	6	0	2	0	2	0	0	0	3	1	14	1
Delaware.....	0	0	1	0	2	0	2	0	0	0	0	0	5	0
Florida.....	7	2	1	0	1	0	7	0	7	1	4	2	27	5
Georgia.....	1	2	11	4	6	6	9	10	14	13	12	9	53	44
Idaho.....	1	0	0	0	4	0	6	0	3	0	1	0	15	0
Illinois.....	17	4	0	0	8	0	33	1	31	3	7	2	96	10
Indiana.....	10	3	15	4	21	0	18	0	17	1	6	0	87	8
Iowa.....	6	1	10	1	21	5	23	2	7	4	18	2	85	15
Kansas.....	6	2	11	1	13	5	15	9	6	2	10	8	61	27
Kentucky.....	3	1	1	2	5	0	10	0	2	0	19	3	40	6
Louisiana.....	5	4	3	2	4	2	4	3	1	3	2	1	19	15
Maine.....	0	0	0	0	1	0	1	0	0	0	0	0	2	0
Maryland.....	3	0	5	0	8	0	3	0	3	0	1	0	23	0
Massachusetts.....	64	2	47	3	7	0	30	5	3	0	20	3	171	13
Michigan.....	4	0	3	0	5	0	17	0	20	0	5	3	54	3
Minnesota.....	4	1	14	1	12	1	11	3	8	3	10	7	59	16
Mississippi.....	2	0	5	0	3	3	6	8	8	5	2	5	26	21
Missouri.....	7	1	9	1	10	1	20	1	6	3	6	3	58	10
Montana.....	0	1	2	0	4	4	3	1	3	0	4	0	16	6
Nebraska.....	3	1	7	0	5	1	16	0	8	0	9	1	48	3
Nevada.....	2	0	3	0	0	0	1	0	4	0	1	0	11	0
New Hampshire.....	6	0	7	0	6	0	12	1	6	0	7	0	44	1
New Jersey.....	9	1	10	0	10	0	18	0	13	0	2	1	62	2
New Mexico.....	0	0	0	0	0	0	2	0	1	0	0	1	3	1
New York.....	35	2	59	4	52	3	58	4	41	13	57	11	302	37
North Carolina.....	8	0	4	0	6	1	7	1	8	2	8	1	41	5
North Dakota.....	0	0	0	0	2	0	2	1	0	0	0	0	4	1
Ohio.....	54	0	25	0	43	5	21	1	23	1	31	2	197	9
Oklahoma.....	2	0	1	0	9	0	16	1	23	5	15	0	66	6
Oregon.....	0	0	0	0	1	0	2	0	1	0	1	0	5	0
Pennsylvania.....	0	0	25	2	100	1	33	1	28	5	52	8	238	17
Rhode Island.....	0	0	0	0	0	0	0	0	0	0	0	0	0	0
South Carolina.....	3	0	3	0	1	0	7	3	6	1	5	0	25	4
South Dakota.....	4	1	0	0	6	0	16	0	3	0	3	0	32	1
Tennessee.....	1	0	2	0	1	0	5	3	3	0	7	1	19	4
Texas.....	6	1	9	0	15	1	10	0	14	3	15	5	69	10
Utah.....	3	0	1	0	1	0	4	0	4	0	0	0	13	0
Vermont.....	0	0	2	0	1	0	0	0	0	0	0	0	3	0
Virginia.....	10	6	20	7	26	1	25	5	14	6	9	1	104	26
Washington.....	2	0	1	0	3	0	5	0	6	0	1	0	18	0
West Virginia.....	6	0	8	2	5	3	8	0	16	7	1	1	44	13
Wisconsin.....	6	1	11	3	9	0	9	4	7	1	13	4	55	13
Wyoming.....	3	0	0	0	2	0	2	0	0	0	0	0	7	0
Total.....	322	37	364	40	467	45	518	69	394	91	401	90	2,466	372

Source: Docket No. 31954, exhibit No. — (NARUC-7), witness: Walter R. McDonald.

Figures on the preceding tables show the activity of the various State regulatory bodies. The table on page 21 shows that 1,274 applications for passenger-train discontinuances have been approved by State commissions during the years 1951-56 and only 197 denied. The table on page 22 shows that 2,466 applications for railroad station agency discontinuances have been approved during these same years and only 372 have been denied. The ratio of approvals on each table is over 86 percent.

It might be pointed out that in the State of New York 69 applications for passenger-train discontinuances were approved and 48 denied during the years 1951-56. The State of Pennsylvania reports 82 approvals and 8 denials for such applications.

The regulatory body of the State of New York approved 302 applications for railroad station agency discontinuances and denied 37; whereas, the regulatory body of the State of Pennsylvania approved 238 and denied only 17. We are informed that the figures for 1957 and the first 5 months of 1958 follow the same general ratios.

The above statistics are the result of 8 years work by the passenger deficit committee of the National Association of Railroad and Utilities Commission, and we believe these tables substantiate the views of this association in that discontinuance of passenger service and State agencies should be left with the State regulatory bodies. If inequities exist in some few States, those inequities should be corrected in and by those States. When Mr. McDonald gave his testimony, no questions were suggested by proponents of section 4 and his statements were not refuted.

The State regulatory commissions are familiar with local conditions and needs for service. They are, therefore, better suited to exercise jurisdiction over such matters of regulation that have, historically, been left to regulation at the State level.

Residents of an area affected by the discontinuance of a service or a station should have the right of protest to their State regulatory body and should be neither compelled nor expected to necessarily protest to and appear before the Interstate Commerce Commission.

To permit rail carriers to change or discontinue passenger or freight service, or other facility without reference to or compliance with State laws, might well in effect, occasion the termination of virtually all passenger-train services in the East or in any other sections of the country. No doubt, if the Interstate Commerce Commission is given complete authority to regulate trains operating within and through the States, and particularly so if the ICC is given permission, upon a finding that such operation of services will result in a net loss to the railroads, the only test for continuance or discontinuance will be, "Is this particular operation profitable" instead of "Is this particular operation necessary to the 'public convenience and necessity'?"

The existing authority of the Interstate Commerce Commission over intrastate rates is entirely adequate to keep State commissions from discriminating against or burdening interstate commerce.

It is untimely and unwise to consider any amendment to section 13 of the Interstate Commerce Act, particularly so, where these matters of jurisdiction cannot possibly have any great bearing on a bill to enable the railroads to obtain guaranteed loans. It is also a fallacy to leave the impression that by stripping State commission regulatory rights or bringing them under Federal control would eliminate the mounting railroad passenger deficit of more than \$723 million in 1957.

We want to see legislation enacted which will give needed and reasonable assistance to the railroads, but we do not feel that this can be accomplished by taking away from the State regulatory agencies certain rights now designated to them. To do so would be a dangerous departure from the principles supporting the dual sovereignty form of government. The key to totalitarianism and its attending loss of freedom and rights is to be found in an overconcentration of powers in a central government.

We cannot in good conscience advocate legislation which would seriously jeopardize our dual system of government and give additional

powers to the Federal Government and at the same time constitute a flagrant invasion of States and local jurisdiction. For that reason we oppose the provisions of section IV.

JOHN BELL WILLIAMS.
KENNETH A. ROBERTS.
MORGAN M. MOULDER.
JOHN J. FLYNT, Jr.
J. CARLTON LOSER.

SUPPLEMENTAL VIEWS OF MR. DINGELL

I am in concurrence generally with the purposes of the bill being reported, but there are certain features of the proposal relating to the Federal guaranty of private loans to the railroads which I feel need strengthening.

Obviously, under the conditions existing as a result of the economic recession with the deplorable layoffs in many industries and especially in the transportation industry, any sound measure giving some assurance of immediate reemployment is one with which I am heartily in accord. If the promises of quick reinstitution of capital improvements and maintenance programs upon securing the financial assistance provided by the bill which have been given to the committee by certain railroads are fulfilled, this bill would seem to be that kind of a measure.

It is my belief, however, that already the Congress and financial agencies have taken steps that have led to a substantial increase in the lending capacity of our financial institutions. It seems to me that such institutions under compulsion to find every expanding avenue for investment, as well as to undertake some of the responsibilities for stimulating investment to bring a quick end to the recession properly should assume a portion of the risk which may be attached to the railroad borrowings here contemplated. I believe that the terms of the original bill, H. R. 11527, were much better in this respect than those of the bill here reported in that the Government guaranty was limited to not more than 90 percent of the unpaid principal of any loan. Certainly the assumption of only one-tenth of what risk there might be in a loan made for the purposes provided for by the bill by financial institutions or by investors who presumably receive a return commensurate with what risk may be involved, is not only appropriate but necessary to protect the Government and taxpayers.

In addition, while I appreciate that the Interstate Commerce Commission must pass upon the assurance of the underlying securities, for the guaranty of which authorization is here provided, in accordance with the public interest standards set forth in section 20 (a) of the act it seems to me that in view of the Federal guaranty here provided, which at some subsequent date may entail the use of taxpayers funds to offset a default, that there should be further specific protection to the Government. I believe, accordingly, that the limitations in section 504 of the proposed new part V should include two additional limitations, namely, that no guaranty shall be made by the Interstate Commerce Commission: (1) unless the Commission is of the opinion that the prospective earning power of the applicant carrier, together with the character and value of the security pledged, if any, furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and reasonable protection to the United States; and (2) unless the Commission is of the opinion that the applicant carrier is not in need of reorganization of its capital structure.

JOHN D. DINGELL.

SUPPLEMENTAL VIEWS OF MR. ALGER

I voted to report this bill, but I have misgivings about the wisdom of enacting section 2 of the bill which provides for federally guaranteed loans to the railroads. Surely, if we authorize Federal guaranty of loans to the railroad industry now we cannot logically deny this relief, assuming the need arises, to other common carriers, whether they be trucks, buses, water carriers, oil or gas pipelines, freight forwarders, sleeping-car companies, railway express, scheduled airlines, telephone and telegraph companies, et cetera.

The need for providing guaranteed loans was shown to exist for only a few railroads, particularly in the New England region. Perhaps an equally acute need for such loans can be shown for certain individual truck or bus lines, water carriers, freight forwarders, or pipelines. I fear that if this legislation is enacted it won't be very long before we are asked to guarantee the loans of other common carriers.

My concern is that once we start this program of guaranteed loans, the carriers, even Members of Congress, might be lulled into a feeling of complacency and paternalism rather than to give attention to rooting out the basic ills of the industry, which have occasioned the need for this financial help. The financial guaranty is allegedly temporary. How temporary is 15 years, the length of these loans?

I am not convinced that the railroad industry has done all it should to help itself before coming to the Federal Government asking for help in the form of guaranteed loans. What have they done to reduce unnecessary expenses and featherbedding? I was very much surprised to find in wage statistics published by the Interstate Commerce Commission that for the calendar year 1957 class I railroads paid approximately \$241 million compensation for time not worked. This amount does not include the time paid for but not worked of train and engine crews. I realize that some of this time paid for but not worked includes vacation allowances, but it far from includes all so-called featherbedding, the exact amount of which I was unable to determine.

Train and engine crews still operated under working rules established during the horse-and-buggy days when a 100-mile run in freight service constituted a day's work. Statistics published by the Interstate Commerce Commission show that class I railroads paid during 1957 for 428 million miles which were not run. This constitutes over 9 percent of the mileage actually run, which would correspond roughly to \$150 million during the year.

Does it not follow that the railroads should insist upon changes in working agreements with the employee representatives toward the end that this featherbedding be eliminated? I believe that it is in the best interest of the railway labor organizations to cooperate with the carriers in establishing fair and equitable working agreements which are geared to a more realistic appraisal of the relative status of the railroad industry as a common carrier. Railroad employees themselves should recognize the fact that their wages must be paid out of revenues and that the more the railroads are saddled with

unnecessary and burdensome expenses the higher the rates on freight and passengers will be.

I suspect that the railroads to some extent have already priced themselves out of the market. That is why they are losing traffic, relatively speaking. And a loss of traffic inevitably means a loss of jobs for railroad employees. I understand that the number of employees in the railroad industry is now less than 825,000, which is the lowest level of employment ever recorded for this industry.

Next, class I railroads pay over \$100 million a year for injuries to persons, about 80 to 90 percent of it being paid for injuries to employees. Some carriers have excellent safety records. Other carriers have poor safety records. If a concerted drive were made to improve the safety on all carriers probably up to \$50 million a year could be saved.

In addition, the railroad industry can assist itself by eliminating as much as possible the duplication of services and facilities. It should consolidate terminals wherever possible. I understand that many millions of dollars can be saved by such consolidations. The industry should become more aggressive in soliciting traffic. These are but several of the efforts railroads can make to help themselves, before Government guaranteed loans are asked.

The very provisions of this bill obviate the need for guaranteed loans. The rule of ratemaking has been liberalized. The railroads are given authority over the discontinuance of unprofitable interstate services of any train or ferry unless the ICC orders otherwise. The agricultural commodities exemption has been frozen so that there will no longer be a whittling away of regulated categories of traffic to the exempt status. The definition of private carriage by motor vehicle has been tightened so as to eliminate pseudo-private carriage. These provisions should correct some of the basic troubles which have weakened the railroads financially.

Further, there are other Federal Government measures that will help legislation Congress should initiate. The wartime excise taxes on freight and passenger transportation can be repealed. Depreciation allowances can be liberalized. These congressional actions would greatly help the railroads.

It would seem to me that the States have equal responsibility with the Federal Government in seeing to it that the common carrier system is maintained in a healthy condition. State laws which hamper the railroads or trucks from conducting economical and efficient service are a detriment to the carriers and the public generally. They unnecessarily increase the expenses of the carriers and ultimately result in increased rates and fares which the public must pay.

This bill offers relief, without section 2. When added to the provisions of this bill are: (1) more economic and efficient operation by the railroads; (2) the additional Federal corrective legislation herein mentioned such as excise tax repeal, and (3) State tax and service readjustment, the conclusion may well be that Government-guaranteed loans are premature and a most dangerous precedence in the name of helping the railroads. By establishing through public credit the Government-guaranteed loan before taking the other corrective action we may perpetuate the very mistakes that now need correction.

APPENDIXES

APPENDIX A

INTERSTATE COMMERCE COMMISSION BUREAU OF MOTOR CARRIERS RULING No. 107, SECTION 203 (b) (6), MARCH 19, 1958

The following is an administrative ruling of the Bureau of Motor Carriers, for the purpose of making readily available holdings of the Commission and the courts, and Bureau opinions, relating to the status of various commodities under the partial exemption in section 203 (b) (6) of the Interstate Commerce Act. The "Bureau opinions" in this ruling are tentative and provisional and are made either in the absence of authoritative Commission or court decisions or in applying the holdings and reasoning of court decisions which have reversed or altered past general and specific findings of the Commission.

GENERAL

This ruling relates to section 203 (b) (6) as it presently reads:

"Nothing in this part, except the provisions of section 204 relative to qualifications and maximum hours of service of employees and safety of operation or standards of equipment shall be construed to include * * * (6) motor vehicles used in carrying property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof), if such motor vehicles are not used in carrying any other property, or passengers, for compensation; * * *."

Pending before the Congress are bills which if enacted into law would limit or revise the application of the exemption and render obsolete many of the interpretations herein.

For each entry in the commodity list there is shown either the number assigned to one of the Commission or court decisions in the case list, or the words "Bureau opinion," the latter denoting an informal expression of the Bureau. In a few instances reference is made to a numbered note appended to the ruling. Certain of these explain the reason for Bureau opinions which differ from past Commission decisions. Others mention pending Commission proceedings which may affect the status of commodities making reference thereto.

Though commodities are shown as either "exempt" or "not exempt," it must be kept in mind that an "exempt" commodity loses its exemption whenever it is transported in a vehicle which at the same time is transporting for compensation commodities not within the exemption.

The absence of a commodity from the list below should not be taken to mean that it is either within or not within the exemption. Only those commodities are listed as to which inquiries have been received in the past by the Bureau or which have been the subject of Commission or court proceedings.

W. Y. BLANNING, *Director.*

COMMODITY LIST

Alfalfa, see "Feeds."
Animal fats: Not exempt; Bureau opinion.
Animals, see "Livestock."
Bagged commodities: Placing exempt commodities in bags does not affect their exempt status; case 1.
Bark, see "Forest products."
Barley, see "Grains."
Bees: Exempt, case 1.
Beeswax, crude, in cakes and slabs; exempt, Bureau opinion.
Beet pulp, see "Feeds."
Beets, sugar: Exempt; case 1.
Berries, see "Fruits."
Bran, see "Feeds."
Broom corn, threshed and baled: Exempt; Bureau opinion.
Bulbs, see "Horticultural commodities."
Butter: Not exempt; case 20.
Buttermilk: Exempt; case 20.
Canned fruits and vegetables: Not exempt; case 20.
Carnauba wax as imported in slabs or chunks: Not exempt; Bureau opinion.
Castor beans: Exempt; case 1.
Cattle, live, see "Livestock."
Cattle, slaughtered: Not exempt; case 20.
Charcoal: Not exempt; Bureau opinion.
Cheese: Not exempt; case 1.
Cheese, cottage: Not exempt; case 20.
Cheese, cream: Not exempt; case 20.
Christmas trees, plain, sprayed, or coated: Exempt; Bureau opinion.
Citrus fruits, see "Fruits."
Coal: Not exempt; Bureau opinion.
Coca beans: Exempt; case 1 (b); note 1.
Coffee beans, green: Exempt; case 1 (b); note 1.
Coffee, roasted: Not exempt; Bureau opinion.
Coffee, instant: Not exempt; Bureau opinion.
Containers, crates, and boxes which have been used in the movement of exempt commodities and are being returned for reuse: Exempt; case 8.
Containers, new for use in shipping exempt commodities: Not exempt; case 8.
Copra meal: Not exempt; case 6.
Corn, see "Grain."
Corncobs: Exempt; case 1.
Corncobs, ground: Exempt; Bureau opinion; note 4.
Corn fodder: Exempt; case 1.
Cottage cheese, see "Cheese."
Cotton, carded but not spun, woven, or knitted: Exempt; Bureau opinion; note 5.
Cotton, ginned or unginned: Exempt; case 1.
Cotton linters: Exempt; case 20.
Cotton waste, consisting of scraps of cotton fiber not spun, woven or knitted: Exempt; Bureau opinion; note 5.
Cotton yarn: Not exempt; Bureau opinion.
Cottonseed, whole: Exempt; case 1.
Cottonseed cake: Not exempt; Bureau opinion.
Cottonseed, dehulled: Exempt; Bureau opinion.
Cottonseed hulls: Exempt; case 20.
Cottonseed meal: Not exempt; case 20.
Crates, see "Containers."
Cream, see "Milk."
Cream cheese, see "Cheese."
Dehydrated, see commodity name, "Fruits," "Vegetables," "Eggs," etc.
Diatomaceous earth: Not exempt; Bureau opinion.
Dinners, frozen: Not exempt; Bureau opinion.
Dinners, seafood, frozen: Not exempt; case 7; note 6.
Dried, see commodity name, "Fruits," "Vegetables," "Eggs," etc.

Eggs:

- Albumen, fresh, liquid: Exempt; case 5.
- Dried: Exempt; case 20.
- Frozen: Exempt; case 20.
- In shell: Exempt; case 1.
- Liquid, whole or separated: Exempt; case 5.
- Oiled: Exempt; case 1.
- Powder, dried: Exempt; case 20.
- Shelled: Exempt; case 5.
- Yolks, dried: Exempt; case 20.
- Yolks, fresh, liquid: Exempt; case 5.

Fats, animal: Not exempt; Bureau opinion.

Feathers: Exempt, case 20.

Feeds:

- Alfalfa meal: Not exempt; Bureau opinion.
- Alfalfa pellets: Not exempt; Bureau opinion.
- Beet pulp: Not exempt; case 6.
- Bran shorts: Not exempt; case 6.
- Copra meal: Not exempt; case 6.
- Corn gluten: Not exempt; Bureau opinion.
- Cottonseed products, see "Cottonseed."
- Distilled corn grain residues, with or without solubles added: Not exempt; case 6.
- Fish meal: Not exempt; case 6.
- Hominy feed: Not exempt; Bureau opinion.
- Middlings: Not exempt; case 6.
- Oat hulls, ground: Exempt; Bureau opinion; note 4.
- Pelletized ground refuse screenings: Not exempt; case 6.
- Rice, bran: Exempt; Bureau opinion; compare case 12.
- Screenings, feed: Exempt; case 6.
- Wheat bran: Not exempt; Bureau opinion.
- Wheat shorts: Not exempt; Bureau opinion.

Fertilizer, commercial: Not exempt; Bureau opinion.

Fish (including shellfish):

- General—Frozen, quick frozen, and unfrozen fish and shellfish in the various forms in which it is shipped, such as live fish, fish in the round, beheaded, and gutted fish, filleted fish, beheaded shrimp, and oysters, clams, crabs, and lobsters, with or without shells, including crab meat and lobster meat: Exempt, case 11.
- Breaded, uncooked, frozen or unfrozen: Exempt; administrative ruling No. 98, November 28, 1955.
- Cakes, codfish: Not exempt; case 7; note 6.
- Clam juice or broth: Not exempt; Bureau opinion.
- Cooked or partially cooked fish or shrimp, frozen or unfrozen: Not exempt; administrative ruling No. 98, November 28, 1955.
- Croquettes, salmon, frozen: Not exempt; case 7; note 6.
- Deviled crabs, clams, or lobsters, frozen: Not exempt; case 7; note 6.
- Dinners, frozen: Not exempt; case 7; note 6.
- Fried fish fillets, oysters, or scallops, frozen: Not exempt; case 7; note 6.
- Frogs, live or dressed: Exempt; Bureau opinion.
- Frozen, see "General" above, and individual listings.
- Hermetically sealed in containers as a treatment for preserving: Not exempt; case 11.
- Hermetically sealed in containers for cleanliness only, preservation attained by refrigeration; exempt; Bureau opinion.
- Meal: Not exempt; case 6.
- Offal (inedible portions of fish not further processed): Exempt; Bureau opinion.
- Oil from fishes: Not exempt; Bureau opinion.
- Preserved, or treated for preserving, such as smoked, salted, pickled, spiced, corned or kippered: Not exempt; case 11.
- Shells, oyster, moving to market for use in buttonmaking: Not exempt; case 16.
- Stew, consisting of raw oysters or clams, milk, and seasoning, frozen but uncooked: Exempt; Bureau opinion.
- Sticks, frozen: Not exempt; case 7; note 6.
- Turtles, sea or fresh water: Exempt; Bureau opinion.
- Whale meat, fresh: Exempt; Bureau opinion.

Flagstone: Not exempt; Bureau opinion.
 Flax fiber: Exempt; ease 1.
 Flaxseed, whole: Exempt; ease 1.
 Flaxseed meal: Not exempt; Bureau opinion.
 Flour: Not exempt; Bureau opinion.
 Flowers and flower plants, see "Horticultural commodities."
 Fodder, corn and sorghum: Exempt; ease 1.
 Forage, see "Hay."
 Forest products:
 Bark: Exempt; ease 1.
 Bark, boiled to clean and soften: Exempt; Bureau opinion.
 Blankets of pine and spruce boughs: Exempt; Bureau opinion.
 Greenery: Exempt; ease 1.
 Holly sprigs, and cuttings: Exempt; Bureau opinion.
 Leaves: Exempt; ease 1.
 Leaves, sisal, husks and moisture removed: Exempt, Bureau opinion.
 Mistletoe: Exempt; Bureau opinion.
 Myrobalans, as imported in natural state: Exempt; Bureau opinion.
 Palmyra stalk fibers (fronds from palm leaves): Exempt; Bureau opinion.
 Peat moss, dried, shredded, baled: Exempt; ease 22.
 Resin, crude: Exempt; ease 1.
 Resin products, such as turpentine: Not exempt; administrative ruling No. 62, August 3, 1937.
 Roots, natural or dried: Exempt; Bureau opinion.
 Sap, maple: Exempt; ease 1.
 Spanish moss: Exempt; ease 1.
 Sphagnum moss: Exempt; Bureau opinion.
 Spices, see separate listing, "Spices."
 Trees, see separate listing, "Trees."
 Valonia, as imported in natural state: Exempt; Bureau opinion.
 Wreaths of holly or other natural material with small amount of foundation or decorative material: Exempt; Bureau opinion.
 Frogs, see "Fish."
 Frozen, see commodity name, "Fruits," "Vegetables," "Fish," Poultry," etc.
 Fruits and berries:
 Bagged: Exempt; ease 1.
 Canned: Not exempt; ease 20.
 Citrus fruit sections, fresh, cold-packed, semifrozen, or frozen: Exempt; Bureau opinion; note 2.
 Color added: Exempt; ease 1.
 Dates, pitted, dried: Exempt; Bureau opinion.
 Dehydrated: Exempt; Bureau opinion; note 3.
 Dried, naturally or artificially: Exempt; cases 1 and 20.
 Figs, dried, halved or quartered: Exempt; Bureau opinion.
 Frozen, fresh: Exempt; ease 20.
 Fumigated: Exempt; ease 1.
 Graded: Exempt; ease 1.
 Hulls of oranges after juice extractions: Not exempt; Bureau opinion.
 In brine, to retain freshness: Exempt; Bureau opinion.
 Juice, orange or other citrus: Not exempt; ease 17.
 Juice, fruit, plain or concentrated: Not exempt; Bureau opinion.
 Kernels: Exempt; Bureau opinion.
 Oiled apples: Exempt; ease 1.
 Peaches, peeled, pitted, and put in cold storage in unsealed containers: Exempt; ease 20.
 Quick frozen, fresh: Exempt; ease 21.
 Pies, frozen: Not exempt; ease 14.
 Preserved, such as jam: Not exempt; Bureau opinion.
 Purees, strawberry and other, frozen: Not exempt; ease 7; note 6.
 Raisins, seeded or unseeded: Exempt; Bureau opinion.
 Sliced, fresh or frozen: Exempt; Bureau opinion; note 2.
 Strawberries, in sirup and unsealed containers in cold storage: Exempt; ease 20.

Grains:

- Artificially dried: Exempt; case 1.
- Barley, rolled: Exempt; case 20.
- Barley, whole: Exempt; case 1.
- Corn, cracked: Exempt; Bureau opinion.
- Corn, shelled: Exempt; case 1.
- Corn, whole: Exempt; case 1.
- Feeds, see separate heading "Feeds."
- Hulls, see "Feeds."
- Milo maize: Exempt; Bureau opinion.
- Oats, whole: Exempt; case 1.
- Oil extracted from grain: Not exempt; Bureau opinion.
- Popcorn, popped: Not exempt; Bureau opinion.
- Popcorn, unpopped, shelled, in sealed or unsealed containers: Exempt; Bureau opinion.
- Rice bran: Exempt; Bureau opinion; compare case 12.
- Rice, brewers: Exempt; Bureau opinion.
- Rice, clean: Exempt; cases 12 and 20.
- Rice, polish: Exempt; case 20.
- Rice, precooked: Not exempt; Bureau opinion.
- Rice, whole: Exempt; case 1.
- Rye, whole: Exempt; case 1.
- Sorghum grains, whole: Exempt; case 1.
- Wheat germ: Not exempt; Bureau opinion.
- Wheat, whole: Exempt; case 1.
- Grass sod: Exempt; Bureau opinion.
- Gravel: Not exempt; Bureau opinion.
- Greenery, see "Forest products."
- Grinding, see note 4.
- Hair, alpaca, camel, or goat, clipped from animal: Exempt; Bureau opinion.
- Hair, hog or other animal, product of slaughter of animal: Not exempt; Bureau opinion.
- Hay and forage, dried naturally or artificially: Exempt; case 1.
- Hay and forage, chopped: Exempt; case 20.
- Hay and forage, dehydrated: Exempt; case 1.
- Hay and forage, salt (from salt marshes): Exempt; Bureau opinion.
- Hay and forage, sweetened with 3 percent molasses by weight: Not exempt; Bureau opinion.
- Hemp fiber: Exempt; case 1.
- Herbs, see "Spices."
- Hides, green and salted: Not exempt; cases 1 and 23.
- Honey, in the comb or strained: Exempt; case 1.
- Honey, heat treated to retard granulation: Exempt; Bureau opinion.
- Hops: Exempt; case 1.
- Horticultural commodities:
 - Bulbs: Exempt; Bureau opinion.
 - Flowers, growing or cut: Exempt; Bureau opinion.
 - Leaves, natural or dried: Exempt; Bureau opinion.
 - Nursery stock: Exempt; Bureau opinion.
 - Plants, vegetable and flower: Exempt; Bureau opinion.
 - Roots, rhubarb, asparagus, mint, etc.: Exempt; Bureau opinion.
 - Trees, growing, balled in earth: Exempt; Bureau opinion.
 - Wreaths, holly or other natural material, with small amount of foundation or decorative material: Exempt; Bureau opinion.
- Humus, of a nature similar to peat moss: Exempt; Bureau opinion.
- Ice for cooling subsequent shipments of exempt commodities: Exempt; administrative ruling No. 63, August 3, 1937.
- Imported commodities: Have same status as domestic; cases 1 (b) and 22.
- Insecticides: Not exempt; Bureau opinion.
- Juices, see "Fruits."
- Jute fiber, in bales: Exempt; Bureau opinion.
- Kelp, dried, ground: Exempt; Bureau opinion; note 4.
- Latex, see "Rubber."
- Leaves, see "Forest products", "Horticultural commodities", and "Spices."

Livestock:

Exhibit animals, such as those of 4-H Club members, which though showed for a few days, are chiefly valuable for slaughter: Exempt; Bureau opinion.

Medical use animals, such as ordinary healthy swine for serum manufacture: Exempt; Bureau opinion.

Monkeys: Not exempt; Bureau opinion.

Ordinary, i. e., all cattle, swine, sheep, goats, horses, and mules, except such as are chiefly valuable for breeding, racing, show purposes, and other special uses: Exempt; case 1.

Race horses: Not exempt; case 1.

Registered or purebred cattle for ordinary farm or ranch uses, not chiefly valuable for breeding, race, show, or other special purposes: Exempt; Bureau opinion.

Show horses: Not exempt; case 1.

Zoo animals: Not exempt; Bureau opinion.

Limestone, agricultural: Not exempt; Bureau opinion.

Linseed meal, see "Meal."

Lumber, rough sawed or planed: Not exempt; cases 1 and 9.

Manure, in natural state: Exempt; case 1.

Manure, dried or dehydrated, bagged; Exempt; Bureau opinion.

Maple sap: Exempt; case 1.

Maple syrup: Not exempt; Bureau opinion.

Meal, alfalfa: Not exempt; Bureau opinion.

Meal, copra: Not exempt; case 6.

Meal, cottonseed: Not exempt; case 20.

Meal, fish: Not exempt; case 6.

Meal, flaxseed: Not exempt; Bureau opinion.

Meal, linseed: Not exempt; Bureau opinion.

Meal, peanut: Not exempt; Bureau opinion.

Meal, soybean: Not exempt; Bureau opinion.

Meat and meat products, fresh, frozen or canned: Not exempt; cases 1 and 20.

Milk and cream:

Buttermilk: Exempt; case 20.

Chocolate: Not exempt; case 1.

Condensed: Not exempt; case 20.

Frozen: Exempt; case 20.

Homogenized: Exempt; case 1.

Pasteurized: Exempt; cases 1 and 20.

Powdered: Exempt; case 20.

Raw: Exempt; case 1.

Skim: Exempt; cases 1 and 20.

Skim, with two-thirds of water removed, in bulk or unsealed containers: Exempt; Bureau opinion.

Standardized: Exempt; case 1.

Sterilized in hermetically sealed cans: Not exempt; Bureau opinion.

Vitamin A: Exempt; cases 1 and 20.

Milo, see "Grains."

Mohair, raw, cleaned, or seoured: Exempt; case 1 (a).

Molasses: Not exempt; Bureau opinion.

Moss, see "Forest products."

Mushrooms, fresh: Exempt; case 4.

Nursery stock, see "Horticultural commodities."

Nuts, (including peanuts):

Peanut meal: Not exempt; Bureau opinion.

Peanut shells, ground: Exempt; case 20; note 4.

Polished: Exempt; Bureau opinion.

Raw, shelled or unshelled: Exempt; cases 1, 3, and 18.

Roasted or boiled: Not exempt; Bureau opinion.

Shelled, raw: Exempt; cases 3 and 18.

Shells: Exempt; Bureau opinion.

Shells, ground peanuts: Exempt; case 20; note 4.

Unshelled, raw: Exempt; case 1.

Oats, see "Grains."

Oil, mint: Not exempt; case 1.

Oil, extracted from vegetables, grain, seed, fish, or other commodity: Not exempt; Bureau opinion.

Paekaged commodities: Paekaging exempt commodities does not affect their exempt status; case 1.

- Peanuts, see "Nuts."
- Peat moss, see "Forest products."
- Pelletized feeds, see "Feeds."
- Pelts: Not exempt; case 1.
- Pies, frozen: Not exempt; case 14.
- Pigeons, racing: Not exempt, case 13.
- Plants, vegetable or flower, see "Horticultural commodities."
- Poles, see "Trees."
- Popcorn, see "Grains."
- Poultry, dressed, fresh or frozen: Exempt; case 19.
- Poultry feathers: Exempt; case 20.
- Poultry, frozen: Exempt; case 19.
- Poultry, live: Exempt; case 1.
- Poultry, picked: Exempt; case 20.
- Poultry, stuffed and frozen: Exempt; Bureau opinion.
- Pulp, beet: Not exempt; case 6.
- Pulp, sugarcane: Not exempt; Bureau opinion.
- Purees, see "Fruits."
- Rabbits, dressed: Exempt; Bureau opinion.
- Raisins, see "Fruits."
- Ramie fiber: Exempt; case 1.
- Resin, see "Forest products."
- Rice, see "Grains."
- Rock: Not exempt; Bureau opinion.
- Roots, see "Forest products." "Horticultural commodities."
- Rubber, crude, in bales: Not exempt; Bureau opinion.
- Rubber, latex, natural, liquid, from which water has been extracted and to which ammonia has been added: Not exempt; case 15.
- Rye, see "Grains."
- Sand: Not exempt; Bureau opinion.
- Sap, see "Forest products."
- Sawdust, from lumber mills: Not exempt; Bureau opinion.
- Seeds:
 - Cotton, see "Cottonseed."
 - Deawned: Exempt; case 20.
 - Flax, see "Flaxseed."
 - Inoculated: Exempt; case 1.
 - Meal made from seeds, see "Meal."
 - Natural: Exempt; case 1.
 - Oil extracted from seeds: Not exempt; case 1.
 - Packets or boxes of seeds in display racks: Exempt; Bureau opinion.
 - Scarified: Exempt; case 20.
 - Screened or sized: Exempt; case 2.
 - Spice, see "Spices."
 - Sprayed for disease control: Exempt; case 2.
- Seaweed, dried, ground: Exempt; Bureau opinion; note 4.
- Shells, nut, see "Nuts."
- Shells, oyster, see "Fish."
- Shingle bolts, see "Trees."
- Skins, animal: Not exempt; cases 1 and 23.
- Sliced, see commodity name, "Fruits," "Vegetables," etc.
- Soil, potting: Not exempt; Bureau opinion.
- Soil, top: Not exempt; Bureau opinion.
- Sorghum fodder: Exempt; case 1.
- Sorghum grains: Exempt; case 1.
- Soup, frozen: Not exempt; Bureau opinion.
- Spices and herbs, unground, whether seeds, berries, leaves, bark, or roots: Exempt; Bureau opinion.
- Spices and herbs, ground but not further processed: Exempt; Bureau opinion; note 4.
- Stover: Exempt; case 1.
- Straw: Exempt; case 1.
- Sugar: Not exempt; case 1.
- Sugar beets: Exempt; case 1.
- Sugarcane: Exempt; case 1.
- Sugarcane pulp: Not exempt; Bureau opinion.
- Sugar, raw: Not exempt; Bureau opinion.
- Syrup, cane: Not exempt; case 1.

Syrup, maple: Not exempt; Bureau opinion.

Tea: Exempt; case 1 (b); note 1.

Telephone poles, see "Trees."

Textile waste, see "Cotton waste."

Tobacco:

Chopped leaf: Exempt; Bureau opinion.

Cigars and cigarettes: Not exempt; Bureau opinion.

Homogenized: Not exempt; Bureau opinion.

Leaf: Exempt; case 1.

Redried leaf: Exempt; case 1 (a).

Smoking: Not exempt; Bureau opinion.

Stemmed leaf: Exempt; Bureau opinion.

Stems: Exempt; Bureau opinion.

Topsoil: Not exempt; Bureau opinion.

Trees:

Bolts for making shingles: Exempt; Bureau opinion.

Brush, mesquite, twigs and debris burned off: Exempt; Bureau opinion.

Christmas, plain, sprayed, or coated: Exempt; Bureau opinion.

Cut to length, peeled, or split: Exempt; case 1.

Growing, see "Horticultural commodities."

Sawed into lumber: Not exempt; case 1.

Shingle bolts: Exempt; Bureau opinion.

Telephone poles, not creosoted: Exempt; Bureau opinion.

Turtles, see "Fish."

Vegetables:

Bagged: Exempt; case 1.

Beans, dried artificially and packed in small container: Exempt; case 20.

Candied sweet potatoes, frozen: Not exempt; case 7; note 6.

Canned: Not exempt; case 20.

Cooked: Not exempt; Bureau opinion.

Cucumbers, salt cured: Exempt; case 1 (b); note 1.

Cured: Exempt; case 1.

Cut up, fresh, in cellophane bags: Exempt; case 20.

Dried, naturally or artificially: Exempt; cases 1 and 2.

Dehydrated: Exempt; Bureau opinion; note 3.

French fried potatoes: Not exempt; case 10.

Frozen, fresh: Exempt; case 21.

Garlic powder: Exempt; Bureau opinion; notes 3 and 4.

Graded: Exempt; case 1.

Oil extracted from vegetables: Not exempt; Bureau opinion.

Onion powder: Exempt; Bureau opinion; notes 3 and 4.

Onion chips and flakes, dried: Exempt; Bureau opinion; note 3.

Peas, split: Exempt; Bureau opinion.

Peeled uncooked: Exempt; Bureau opinion.

Powder onion and garlic: Exempt; Bureau opinion; notes 3 and 4.

Quick frozen, fresh: Exempt; case 21.

Shelled: Exempt; Bureau opinion.

Soup, frozen: Not exempt; Bureau opinion.

Soybean meal: Not exempt; Bureau opinion.

Washed, fresh, in cellophane bags: Exempt; case 20.

Whale meat, see "Fish."

Wheat, see "Grains."

Wheat products, see "Feeds," "Flour."

Wood chips for making woodpulp: Not exempt; Bureau opinion.

Wool, raw, cleaned, or scoured: Exempt; case 1 (a).

Wool grease, as obtained from cleaning or scouring process: Exempt; Bureau opinion.

Wool tops and noils: Exempt; Bureau opinion; note 5.

Wool waste, carded but not spun, woven or knitted: Exempt; Bureau opinion; note 5.

Wool yarn: Not exempt; Bureau opinion.

Wreaths, see "Forest products."

CASE LISTS

COMMISSION

1. *Determination of Exempted Agricultural Commodities* (52 M. C. C. 511).
1. (a) *Determination of Exempted Agricultural Commodities* (62 M. C. C. 87).
1. (b) *Determination of Exempted Agricultural Commodities*, (MC-C-968, First Supplemental Report, decided February 11, 1958).
2. *Blythe Common Carrier Application* (66 M. C. C. 560).
3. *Bonney Motor Express, Inc., Extension* (69 M. C. C. 480).
4. *Dougherty Common Carrier Application* (31 M. C. C. 793).
5. *Erickson Transport Corp., Extension—Madison, South Dakota* (decided December 31, 1957, MC-113908 Sub 21).
6. *Herrett Trucking Co., Inc., Extension—Feeds* (69 M. C. C. 487).
7. *Hughes Extension—Frozen Foods* (71 M. C. C. 457).
8. *Karst Extension—Containers* (62 M. C. C. 579).
9. *Lewis Common Carrier Application* (69 M. C. C. 603).
10. *Midwest Coast Transport, Inc., Extension—Montana* (MC-111812 Sub 27, decided December 31, 1957).
11. *Monark Egg Corp., Contract Carrier Application* (52 M. C. C. 576).
12. *Penn-Dixie Lines, Inc., Extension—Rice* (72 M. C. C. 797).
13. *Prang Extension—Homing Pigeons* (53 M. C. C. 223).
14. *Refrigerated Transport Co., Inc., Extension, Frozen Foods* (72 M. C. C. 459).
15. *Shipley Transfer, Inc., Extension—Liquid Latex* (52 M. C. C. 806). (Not printed.)
16. *Sprofera Common Carrier Application* (66 M. C. C. 123).
17. *Watkins Motor Lines, Inc., Interpretation* (64 M. C. C. 455).

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18. *Consolidated Truck Service, Inc. v. U. S. and I. C. C.* (144 F. Supp. 814).
19. *East Texas Motor Freight Lines, Inc. v. Frozen Food Express* (351 U. S. 49).
20. *Frozen Food Express v. U. S. and I. C. C.* (148 F. Supp. 399, affirmed without opinion 355 U. S. 6).
21. *Home Transfer & Storage Co. v. U. S. and I. C. C.* (141 F. Supp. 599, affirmed without opinion, 352 U. S. 884).
22. *Prcmier Peat Moss Corp. v. U. S.* (147 F. Supp. 169).
23. *Southwestern Trading Co. v. U. S.* (208 F. 2d 708).

NOTES

NOTE 1.—The report in *Determination of Exempted Agricultural Commodities* (MC-C-968), First Supplemental Report, decided February 11, 1958, was served on February 14, 1958. Whether any petitions for reconsideration will be filed is not known at this time.

NOTE 2.—In *Penn-Dixie* (68 M. C. C. 29) Division 1 of the Commission held fresh citrus fruit sections not to be within the exemption. However, this decision was rendered prior to the affirmation by the United States Supreme Court of the court decisions in *I. C. C. v. Home Transfer & Storage Co.* (141 F. Supp. 599, 352 U. S. 884) and in *Frozen Food Express v. U. S.* (148 F. Supp. 399, 355 U. S. 6). In the former case peeled and sliced frozen peaches were held to be within the exemption, and in the latter case cut up vegetables and peeled and pitted peaches were held to be within the exemption.

NOTE 3.—In the *Determination* case (52 M. C. C. 511), the Commission held that dehydrated vegetables do not come within the exemption. However, that position would seem no longer valid in view of the recent holding in *Frozen Food Express v. U. S.* (148 F. Supp. 399), that dried egg powder, dried egg yolks and powdered milk are within the exemption, which holding was affirmed by the United States Supreme Court in 355 U. S. 6.

NOTE 4.—It is rather clear from the *Determination* case (52 M. C. C. 511) that the Commission considered grinding to be manufacturing, though it did not specifically so hold. The Bureau until recently considered all ground commodities to be not exempt. In *Herrett* (69 M. C. C. 487, (January 29, 1957)) the Commission, Division 1, held ground oat hulls not within the exemption. This, however, was prior to the expiration of the date for appeal in *Frozen Food Express v. U. S. and I. C. C.* (148 F. Supp. 399), in which the Court held, among other things, that ground peanut shells, dried egg powder, and powdered milk are within the exemption. No appeal was taken as to ground peanut shells, and on appeal the United States Supreme Court affirmed the decision as to the two

powdered commodities. The Court opinion does not describe the grinding and powdering processes there involved, but in an early Commission case, *Harris and Callis* (4 M. C. C. 169), it was said that ground peanut shells are produced by pulverization in a hammer mill.

In view of the Court holdings, which now are final, the Bureau no longer considers that grinding alone removes a commodity from the exemption. However, manufacturing which follows or precedes grinding may have this effect. Thus the bolting which produces flour would make that commodity nonexempt. Also meals produced by grinding commodities from which the oil has been extracted are considered not within the exemption. Thus in the Frozen Food case, mentioned above, the court held cottonseed meal not to be within the exemption.

NOTE 5.—In view of the “substantial identity” test of the United States Supreme Court in *East Texas Motor Freight Lines, Inc. v. Frozen Food Express* (351 U. S. 49) the Bureau takes the view that the exemption includes cotton or wool which has been combed or carded but not spun, woven or knitted. Thus wool tops and noils are now considered within the exemption. Also considered within the exemption is waste which consists of scraps or discards of cotton or wool fibers resulting from the handling and processing in mills, but not waste made up of scraps of thread, yarn, or cloth.

NOTE 6.—This holding was made in *Hughes* (71 M. C. C. 457), which proceeding later was reopened for further hearing. Pending final determination of the proceeding the holding cannot be considered an authoritative decision of the Commission. However, these same commodities were held not exempt in Bureau opinions rendered previous to the decision. Compare administrative ruling No. 98.

APPENDIX B

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in *roman*):

INTERSTATE COMMERCE ACT, AS AMENDED

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

This Act may be cited as the Interstate Commerce Act.

NATIONAL TRANSPORTATION POLICY

It is hereby declared to be the national transportation policy of the Congress to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this Act, so administered as to recognize and preserve the inherent advantages of each; to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers; to encourage the establishment and maintenance of reasonable charges for transportation services, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices; to cooperate with the several States and the duly authorized officials thereof; and to encourage fair wages and equitable working conditions; all to the end of developing, coordinating, and preserving a national transportation system by water, high-

way, and rail, as well as other means, adequate to meet the needs of the commerce of the United States, of the Postal Service, and of the national defense. All of the provisions of this Act shall be administered and enforced with a view to carrying out the above declaration of policy.

PART I

REGULATION IN GENERAL; CAR SERVICE; ALTERATION OF LINE

(1) That the provisions of this part shall apply to common carriers engaged in—

(a) The transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when both are used under a common control, management, or arrangement for a continuous carriage or shipment; or

(b) The transportation of oil or other commodity, except water and except natural or artificial gas, by pipe line, or partly by pipe line and partly by railroad or by water; or

From one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from one place in a Territory to another place in the same Territory, or from any place in the United States through a foreign country to any other place in the United States, or from or to any place in the United States to or from a foreign country, but only in so far as such transportation takes place within the United States.

(2) The provisions of this part shall also apply to such transportation of passengers and property, but only in so far as such transportation takes place within the United States, but shall not apply—

(a) To the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one State and not shipped to or from a foreign country from or to any place in the United States as aforesaid, *except as otherwise provided in this part*;

(b) or

(c) To the transportation of passengers or property by a carrier by water where such transportation would not be subject to the provisions of this part except for the fact that such carrier absorbs, out of its port-to-port water rates or out of its proportional through rates, any switching, terminal, lighterage, car rental, trackage, handling, or other charges by a rail carrier for services within the switching, drayage, lighterage, or corporate limits of a port terminal or district.

(3) (a) The term “common carrier” as used in this part shall include all pipe-line companies; express companies; sleeping-car companies; and all persons, natural or artificial, engaged in such transportation as aforesaid as common carriers for hire. Wherever the word “carrier” is used in this part it shall be held to mean “common carrier.” The term “railroad” as used in this part shall include all bridges, car floats, lighters, and ferries used by or operated in connection with any railroad, and also all the road in use by any common carrier operating a railroad, whether owned or operated under a contract, agreement, or lease, and also all switches, spurs, tracks, terminals, and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, in-

cluding all freight depots, yards, and grounds, used or necessary in the transportation or delivery of any such property. The term "transportation" as used in this part shall include locomotives, cars, and other vehicles, vessels, and all instrumentalities and facilities of shipment or carriage, irrespective of ownership or of any contract, express or implied, for the use thereof, and all services in connection with the receipt, delivery, elevation, and transfer in transit, ventilation, refrigeration or icing, storage, and handling of property transported. The term "person" as used in this part includes an individual, firm, copartnership, corporation, company, association, or joint-stock association; and includes a trustee, receiver, assignee, or personal representative thereof.

(b) For the purposes of sections 5, 12 (1), 20, 204 (a) (7), 210, 220, 304 (b), 310, and 313 of this Act, where reference is made to control (in referring to a relationship between any person or persons and another person or persons), such reference shall be construed to include actual as well as legal control, whether maintained or exercised through or by reason of the method of or circumstances surrounding organization or operation, through or by common directors, officers, or stockholders, a voting trust or trusts, a holding or investment company or companies, or through or by any other direct or indirect means; and to include the power to exercise control.

(4) It shall be the duty of every common carrier subject to this part to provide and furnish transportation upon reasonable request therefor, and to establish reasonable through routes with other such carriers, and just and reasonable rates, fares, charges, and classifications applicable thereto; and it shall be the duty of common carriers by railroad subject to this part to establish reasonable through routes with common carriers by water subject to part III, and just and reasonable rates, fares, charges, and classifications applicable thereto. It shall be the duty of every such common carrier establishing through routes to provide reasonable facilities for operating such routes and to make reasonable rules and regulations with respect to their operation, and providing for reasonable compensation to those entitled thereto; and in case of joint rates, fares, or charges, to establish just, reasonable, and equitable divisions thereof, which shall not unduly prefer or prejudice any of such participating carriers.

(5) All charges made for any service rendered or to be rendered in the transportation of passengers or property, or in connection therewith, shall be just and reasonable, and every unjust and unreasonable charge for such service or any part thereof is prohibited and declared to be unlawful.

(5½) Nothing in this Act shall be construed to prevent any common carrier subject to this Act from entering into or operating under any contract with any telephone, telegraph, or cable company, for the exchange of their services.

(6) It is hereby made the duty of all common carriers subject to the provisions of this part to establish, observe, and enforce just and reasonable classifications of property for transportation, with reference to which rates, tariffs, regulations, or practices are or may be made or prescribed, and just and reasonable regulations and practices affecting classifications, rates, or tariffs, the issuance, form, and substance of tickets, receipts, and bills of lading, the manner and method of presenting, marking, packing, and delivering property

for transportation, the facilities for transportation, the carrying of personal, sample, and excess baggage, and all other matters relating to or connected with the receiving, handling, transporting, storing, and delivery of property subject to the provisions of this part which may be necessary or proper to secure the safe and prompt receipt, handling, transportation, and delivery of property subject to the provisions of this part upon just and reasonable terms, and every unjust and unreasonable classification, regulation, and practice is prohibited and declared to be unlawful.

(7) No common carrier subject to the provisions of this part shall, after January first, nineteen hundred and seven, directly or indirectly, issue or give any interstate free ticket, free pass, or free transportation for passengers, except to its employees, its officers, time inspectors, surgeons, physicians, and attorneys at law, and the families of any of the foregoing; to the executive officers, general chairmen, and counsel of employees' organizations when such organizations are authorized and designated to represent employees in accordance with the provisions of the Railway Labor Act; to ministers of religion, traveling secretaries of railroad Young Men's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute, and homeless persons, and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the National Homes or States Homes for Disabled Volunteer Soldiers, and of Soldiers' and Sailors' Homes, including those about to enter and those returning home after discharge; to necessary caretakers of live stock, poultry, milk, and fruit; to employees on sleeping cars, express cars, and to linemen of telegraph and telephone companies; to railway mail-service employees and persons in charge of the mails when on duty and traveling to and from duty, and all duly accredited agents and officers of the Post Office Department and the Railway Mail Service and post-office inspectors while traveling on official business, upon the exhibition of their credentials; to customs inspectors, and immigration officers; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the common carrier is interested, persons injured in wrecks and physicians and nurses attending such persons: *Provided*, That this provision shall not be construed to prohibit the interchange of passes for the officers, agents, and employees of common carriers, and their families; nor to prohibit any common carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation: *And provided further*, That this provision shall not be construed to prohibit the privilege of passes or franks, or the exchange thereof with each other, for the officers, agents, employees, and their families of such telegraph, telephone and cable lines, and the officers, agents, employees and their families of other common carriers subject to the provisions of this part: *Provided further*, That the term "employees" as used in this paragraph shall include furloughed, pensioned, and superannuated employees, persons who have become disabled or infirm in the service of any such common carrier, and the remains of a person killed in the employment of a carrier and ex-employees traveling for the purpose of entering the service of any such common carrier; and the term "families" as used in this paragraph shall include

the families of those persons named in this proviso, also the families of persons killed, and the widows during widowhood and minor children during minority of persons who died, while in the service of any such common carrier. Any common carrier violating this provision shall be deemed guilty of a misdemeanor, and for each offense, on conviction, shall pay to the United States a penalty of not less than one hundred dollars nor more than two thousand dollars, and any person, other than the persons excepted in this provision, who uses any such interstate free ticket, free pass, or free transportation shall be subject to a like penalty. Jurisdiction of offenses under this provision shall be the same as that provided for offenses in an Act entitled "An Act to further regulate commerce with foreign nations and among the States," approved February nineteenth, nineteen hundred and three, and any amendment thereof.

(8) From and after May first, nineteen hundred and eight, it shall be unlawful for any railroad company to transport from any State, Territory, or the District of Columbia, to any other State, Territory, or the District of Columbia, or to any foreign country, any article or commodity, other than timber and the manufactured products thereof, manufactured, mined, or produced by it, or under its authority, or which it may own in whole or in part, or in which it may have any interest, direct or indirect, except such articles or commodities as may be necessary and intended for its use in the conduct of its business as a common carrier.

(9) Any common carrier subject to the provisions of this part, upon application of any lateral, branch line of railroad, or of any shipper tendering interstate traffic for transportation, shall construct, maintain, and operate upon reasonable terms a switch connection with any such lateral, branch line of railroad, or private side track which may be constructed to connect with its railroad, where such connection is reasonably practicable and can be put in with safety and will furnish sufficient business to justify the construction and maintenance of the same; and shall furnish cars for the movement of such traffic to the best of its ability without discrimination in favor of or against any such shipper. If any common carrier shall fail to install and operate any such switch or connection as aforesaid, on application therefor in writing by any shipper or owner of such lateral, branch line of railroad, such shipper or owner of such lateral, branch line of railroad may make complaint to the Commission, as provided in section thirteen of this part, and the Commission shall hear and investigate the same and shall determine as to the safety and practicability thereof and justification and reasonable compensation therefor, and the Commission may make an order, as provided in section fifteen of this part, directing the common carrier to comply with the provisions of this section in accordance with such order, and such order shall be enforced as hereinafter provided for the enforcement of all other orders by the Commission, other than orders for the payment of money.

(10) The term "car service" in this part shall include the use, control, supply, movement, distribution, exchange, interchange, and return of locomotives, cars, and other vehicles used in the transportation of property, including special types of equipment, and the supply of trains, by any carrier by railroad subject to this part.

(11) It shall be the duty of every carrier by railroad subject to this part to furnish safe and adequate car service and to establish, observe,

and enforce just and reasonable rules, regulations, and practices with respect to car service; and every unjust and unreasonable rule, regulation, and practice with respect to car service is prohibited and declared to be unlawful.

(12) It shall also be the duty of every carrier by railroad to make just and reasonable distribution of cars for transportation of coal among the coal mines served by it, whether located upon its line or lines or customarily dependent upon it for car supply. During any period when the supply of cars available for such service does not equal the requirements of such mines it shall be the duty of the carrier to maintain and apply just and reasonable ratings of such mines and to count each and every car furnished to or used by any such mine for transportation of coal against the mine. Failure or refusal so to do shall be unlawful, and in respect of each car not so counted shall be deemed a separate offense, and the carrier, receiver, or operating trustee so failing or refusing shall forfeit to the United States the sum of \$100 for each offense, which may be recovered in a civil action brought by the United States.

(13) The Commission is hereby authorized by general or special orders to require all carriers by railroad subject to this part, or any of them, to file with it from time to time their rules and regulations with respect to car service, and the Commission may, in its discretion, direct that such rules and regulations shall be incorporated in their schedules showing rates, fares, and charges for transportation, and be subject to any or all of the provisions of this part relating thereto.

(14) (a) The Commission may, after hearing, on a complaint or upon its own initiative without complaint, establish reasonable rules, regulations, and practices with respect to car service by common carriers by railroad subject to this part, including the compensation to be paid and other terms of any contract, agreement, or arrangement for the use of any locomotive, car, or other vehicle not owned by the carrier using it (and whether or not owned by another carrier), and the penalties or other sanctions for nonobservance of such rules, regulations, or practices.

(b) It shall be unlawful for any common carrier by railroad or express company, subject to this part, to make or enter into any contract, agreement, or arrangement with any person for the furnishing to or on behalf of such carrier or express company of protective service against heat or cold to property transported or to be transported in interstate or foreign commerce, or for any such carrier or express company to continue after April 1, 1941, as a party to any such contract, agreement, or arrangement unless and until such contract, agreement, or arrangement has been submitted to and approved by the Commission as just, reasonable, and consistent with the public interest: *Provided*, That if the Commission is unable to make its determination with respect to any such contract, agreement, or arrangement prior to said date, it may extend it to not later than October 1, 1941.

(15) Whenever the Commission is of opinion that shortage of equipment, congestion of traffic, or other emergency requiring immediate action exists in any section of the country, the Commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, if it so orders, without answer or other formal pleading by the interested carrier or carriers, and with or without notice, hearing, or the making or filing

of a report, according as the Commission may determine: (a) to suspend the operation of any or all rules, regulations, or practices then established with respect to car service for such time as may be determined by the Commission; (b) to make such just and reasonable directions with respect to car service without regard to the ownership as between carriers of locomotives, cars, and other vehicles, during such emergency as in its opinion will best promote the service in the interest of the public and the commerce of the people, upon such terms of compensation as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just and reasonable; (c) to require such joint or common use of terminals, including main-line track or tracks for a reasonable distance outside of such terminals, as in its opinion will best meet the emergency and serve the public interest, and upon such terms as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just and reasonable; and (d) to give directions for preference or priority in transportation, embargoes, or movement of traffic under permits, at such time and for such periods as it may determine, and to modify, change, suspend, or annul them. In time of war or threatened war the President may certify to the Commission that it is essential to the national defense and security that certain traffic shall have preference or priority in transportation, and the Commission shall, under the power herein conferred, direct that such preference or priority be afforded.

(16) Whenever the Commission is of opinion that any carrier by railroad subject to this part is for any reason unable to transport the traffic offered it so as properly to serve the public, it may, upon the same procedure as provided in paragraph (15), make such just and reasonable directions with respect to the handling, routing, and movement of the traffic of such carrier and its distribution over other lines of roads, as in the opinion of the Commission will best promote the service in the interest of the public and the commerce of the people, and upon such terms as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just and reasonable.

(17) (a) The directions of the Commission as to car service and to the matters referred to in paragraphs (15) and (16) may be made through and by such agents or agencies as the Commission shall designate and appoint for that purpose. It shall be the duty of all carriers by railroad subject to this part, and of their officers, agents, and employees, to obey strictly and conform promptly to such orders or directions of the Commission, and in case of failure or refusal on the part of any carrier, receiver, or operating trustee to comply with any such order or direction such carrier, receiver, or trustee shall be liable to a penalty of not less than \$100 nor more than \$500 for each such offense and \$50 for each and every day of the continuance of such offense, which shall accrue to the United States and may be recovered in a civil action brought by the United States: *Provided, however,* That nothing in this part shall impair or affect the right of a State, in the exercise of its police power, to require just and reasonable freight and passenger service for intrastate business, except in so far as such requirement is inconsistent with any lawful order of the Commission made under the provisions of this part *and except as otherwise provided in this part.*

(b) It shall be unlawful for any person to offer or give or cause or procure to be offered or given, directly or indirectly, any money, property, or thing of value, or bribe in any other form whatsoever, to any person acting for or employed by any carrier by railroad subject to this part with intent to influence his decision or action, or because of his decision or action, with respect to the supply, distribution, or movement of cars or other vehicles, or vessels, used in the transportation of property. It shall be unlawful for any person acting for or employed by any carrier by railroad subject to this part to solicit, accept, or receive, directly or indirectly, any money, property, or thing of value, or bribe in any other form whatsoever, with intent to be influenced thereby in his decision or action, or because of his decision or action, with respect to the supply, distribution, or movement of cars or other vehicles, or vessels, used in the transportation of property. Any person who violated the provisions of this subparagraph shall be deemed guilty of a misdemeanor and be subject for each offense to a fine of not more than \$1,000, or imprisonment in the penitentiary for a term of not more than two years, or both such fine and imprisonment.

(18) After ninety days after this paragraph takes effect no carrier by railroad subject to this part shall undertake the extension of its line of railroad, or the construction of a new line of railroad, or shall acquire or operate any line of railroad, or extension thereof, or shall engage in transportation under this part over or by means of such additional or extended line of railroad, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such additional or extended line of railroad, and no carrier by railroad subject to this part shall abandon all or any portion of a line of railroad, or the operation thereof, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity permit of such abandonment. Nothing in this paragraph or in section 5 shall be considered to prohibit the making of contracts between carriers by railroad subject to this part, without the approval of the Commission, for the joint ownership or joint use of spur, industrial, team, switching, or side tracks.

(19) The application for and issuance of any such certificate shall be under such rules and regulations as to hearings and other matters as the Commission may from time to time prescribe, and the provisions of this part shall apply to all such proceedings. Upon receipt of any application for such certificate the Commission shall cause notice thereof to be given to and a copy filed with the governor of each State in which such additional or extended line of railroad is proposed to be constructed or operated, or all or any portion of a line of railroad, or the operation thereof, is proposed to be abandoned, with the right to be heard as hereinafter provided with respect to the hearing of complaints or the issuance of securities; and said notice shall also be published for three consecutive weeks in some newspaper of general circulation in each county in or through which said line of railroad is constructed or operates.

(20) The Commission shall have power to issue such certificate as prayed for, or to refuse to issue it, or to issue it for a portion or portions

of a line of railroad, or extension thereof, described in the application, or for the partial exercise only of such right or privilege, and may attach to the issuance of the certificate such terms and conditions as in its judgment the public convenience and necessity may require. From and after issuance of such certificate, and not before, the carrier by railroad may, without securing approval other than such certificate, comply with the terms and conditions contained in or attached to the issuance of such certificate and proceed with the construction, operation, or abandonment covered thereby. Any construction, operation, or abandonment contrary to the provisions of this paragraph or of paragraph (18) or (19) of this section may be enjoined by any court of competent jurisdiction at the suit of the United States, the Commission, any commission or regulating body of the State or States affected, or any party in interest; and any carrier which, or any director, officer, receiver, operating trustee, lessee, agent, or person, acting for or employed by such carrier, who knowingly authorizes, consents to, or permits any violation of the provisions of this paragraph or of paragraph (18) of this section, shall upon conviction thereof be punished by a fine of not more than \$5,000 or by imprisonment for not more than three years, or both.

(21) The Commission may, after hearing, in a proceeding upon complaint or upon its own initiative without complaint, authorize or require by order any carrier by railroad subject to this part, party to such proceeding, to provide itself with safe and adequate facilities for performing as a common carrier its car service as that term is used in this part, and to extend its line or lines: *Provided*, That no such authorization or order shall be made unless the Commission finds, as to such extension, that it is reasonably required in the interest of public convenience and necessity, or as to such extension or facilities that the expense involved therein will not impair the ability of the carrier to perform its duty to the public. Any carrier subject to this part which refuses or neglects to comply with any order of the Commission made in pursuance of this paragraph shall be liable to a penalty of \$100 for each day during which such refusal or neglect continues, which shall accrue to the United States and may be recovered in a civil action brought by the United States.

(22) The authority of the Commission conferred by paragraphs (18) to (21), both inclusive, shall not extend to the construction or abandonment of spur, industrial, team, switching or side tracks, located or to be located wholly within one State, or of street, suburban, or interurban electric railways, which are not operated as a part or parts of a general steam railroad system of transportation.

* * * * *

COMPLAINTS TO AND INVESTIGATIONS BY COMMISSION

SEC. 13. (1) That any person, firm, corporation, company, or association, or any mercantile, agricultural, or manufacturing society or other organization, or any body politic or municipal organization, or any common carrier, complaining of anything done or omitted to be done by any common carrier subject to the provisions of this part in contravention of the provisions thereof, may apply to said Commission by petition, which shall briefly state the facts; whereupon a statement of the complaint thus made shall be forwarded by the Commission to such common carrier, who shall be called upon to

satisfy the complaint, or to answer the same in writing, within a reasonable time, to be specified by the Commission. If such common carrier within the time specified shall make reparation for the injury alleged to have been done, the common carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such carrier or carriers shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the Commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

(2) Said Commission shall, in like manner and with the same authority and powers, investigate any complaint forwarded by the railroad commissioner or railroad commission of any State or Territory at the request of such commissioner or commission, and the Interstate Commerce Commission shall have full authority and power at any time to institute an inquiry, on its own motion, in any case and as to any matter or thing concerning which a complaint is authorized to be made, to or before said Commission by any provision of this part, or concerning which any question may arise under any of the provisions of this part, or relating to the enforcement of any of the provisions of this part. And the said Commission shall have the same powers and authority to proceed with any inquiry instituted on its own motion as though it had been appealed to by complaint or petition under any of the provisions of this part, including the power to make and enforce any order or orders in the case, or relating to the matter or thing concerning which the inquiry is had excepting orders for the payment of money. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant. Representatives of State commissions sitting with the Commission, under the provisions of this section, in cases pending before the Commission, shall receive such allowances for travel and subsistence expense as the Commission shall provide.

(3) Whenever in any investigation under the provisions of this part, or in any investigation instituted upon petition of the carrier concerned, which petition is hereby authorized to be filed, there shall be brought in issue any rate, fare, charge, classification, regulation, or practice, made or imposed by authority of any State, or initiated by the President during the period of Federal control, the Commission, before proceeding to hear and dispose of such issue, shall cause the State or States interested to be notified of the proceeding. The Commission may confer with the authorities of any State having regulatory jurisdiction over the class of persons and corporations subject to this part or part III with respect to the relationship between rate structures and practices of carriers subject to the jurisdiction of such State bodies and of the Commission; and to that end is authorized and empowered, under rules to be prescribed by it, and which may be modified from time to time, to hold joint hearings with any such State regulating bodies on any matters wherein the Commission is empowered to act and where the rate-making authority of a State is or may be affected by the action taken by the Commission. The Commission is also authorized to avail itself of the cooperation, services, records, and facilities of such State authorities in the enforcement of any provision of this part or part III.

(4) Whenever in any such investigation the Commission, after full hearing, finds that any such rate, fare, charge, classification, regula-

tion, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce, which is hereby forbidden and declared to be unlawful, it shall prescribe the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, preference, prejudice, or discrimination. Such rates, fares, charges, classifications, regulations, and practices shall be observed while in effect by the carriers parties to such proceeding affected thereby, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

DISCONTINUANCE OR CHANGE OF CERTAIN OPERATIONS OR SERVICES

SEC. 13a. (1) A carrier or carriers subject to this part, if their rights with respect to the discontinuance or change, in whole or in part, of the operation or service of any train or ferry engaged in the transportation of passengers or property in interstate, foreign and intrastate commerce, or any of them, or of the operation or service of any station, depot or other facility where passengers or property are received for transportation in interstate, foreign and intrastate commerce, or any of them, are subject to any provision of the constitution or statutes of any State or any regulation or order of (or are the subject of any proceeding pending before) any court or an administrative or regulatory agency of any State, may, but shall not be required to, file with the Commission, mail to the Governor of each State in which such train, ferry, station, depot or other facility is operated, and post in every station, depot or other facility directly affected thereby, notice at least thirty days in advance of any such proposed discontinuance or change. The carrier or carriers filing such notice may discontinue or change any such operation or service pursuant to such notice except as otherwise ordered by the Commission pursuant to this section, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any court or State authority to the contrary notwithstanding. Upon the filing of such notice the Commission shall have authority during said thirty days' notice period, either upon complaint or upon its own initiative without complaint, to enter upon an investigation of the proposed discontinuance or change. Upon the institution of such investigation, the Commission, by order served upon the carrier or carriers affected thereby at least ten days prior to the day on which such discontinuance or change would otherwise become effective, may require such train, ferry, station, depot, or other facility to be continued in operation or service, in whole or in part, pending hearing and decision in such investigation, but not for a longer period than four months beyond the date when such discontinuance or change would otherwise have become effective. If, after hearing in such investigation, whether concluded before or after such discontinuance or change has become effective, the Commission finds that the operation or service of such train, ferry, station, depot, or other facility is required by public convenience and necessity and that such operation or service will not result in a net loss therefrom to the carrier or carriers and will not otherwise unduly burden interstate or foreign commerce, the Commission may by order require the continuance or restoration of operation or service

of such train, ferry, station, depot, or other facility, in whole or in part, for a period not to exceed one year from the date of such order. The provisions of this section shall not supersede the laws of any State or the orders or regulations of any administrative or regulatory body of any State applicable to such discontinuance or change unless notice as in this section provided is filed with the Commission. On the expiration of an order by the Commission after such investigation requiring the continuance or restoration of operation or service, the jurisdiction of any State as to such discontinuance or change shall no longer be superseded unless the procedure provided by this section shall again be invoked by the carrier or carriers.

(2) The provisions of this section shall not apply to the operations of or services performed by any carrier by railroad on a line of railroad located wholly within a single State.

(3) The Commission, in cooperation with State utilities commissions, shall make a study of the passenger train deficit problem and report thereon to the Congress not later than June 30, 1959, together with such recommendations as the Commission deems to be necessary or appropriate.

* * * * *

RULE OF RATE MAKING

SEC. 15a. (1) When used in this section the term "rates" means rates, fares, and charges, and all classifications, regulations, and practices relating thereto.

(2) In the exercise of its power to prescribe just and reasonable rates the Commission shall give due consideration, among other factors, to the effect of rates on the movement of traffic by the carrier or carriers for which the rates are prescribed; to the need, in the public interest, of adequate and efficient railway transportation service at the lowest cost consistent with the furnishing of such service; and to the need of revenues sufficient to enable the carriers, under honest, economical, and efficient management to provide such service.

(3) In a proceeding involving competition between carriers of different modes of transportation, subject to this Act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this Act.

* * * * *

DEFINITIONS

SEC. 203. (a) As used in this part—

(1) The term "person" means any individual, firm, copartnership, corporation, company, association, or joint-stock association; and includes any trustee, receiver, assignee, or personal representative thereof.

(2) The term "board" or "State board" means the commission, board, or official (by whatever name designated in the laws of a State) which, under the laws of any State in which any part of the service in interstate or foreign commerce regulated by this part is performed, has or may hereafter have jurisdiction to grant or approve certificates of public convenience and necessity or permits to motor

carriers, or otherwise to regulate the business of transportation by motor vehicles, in intrastate commerce over the highways of such State.

(3) The term "Commission" means the Interstate Commerce Commission.

(4) The term "joint board" means any special board constituted as provided in section 205 of this part.

(5) The term "certificate" means a certificate of public convenience and necessity issued under this part to common carriers by motor vehicle.

(6) The term "permit" means a permit issued under this part to contract carriers by motor vehicle.

(7) The term "license" means a license issued under this part to a broker.

(8) The term "State" means any of the several States or the District of Columbia; and the term "United States" means the several States and the District of Columbia.

(9) The term "express company" means any common carrier by express subject to the provisions of part I.

(10) The term "interstate commerce" means commerce between any place in a State and any place in another State or between places in the same State through another State, whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by rail, express, or water.

(11) The term "foreign commerce" means commerce, whether such commerce moves wholly by motor vehicle or partly by motor vehicle and partly by rail, express, or water, (A) between any place in the United States and any place in a foreign country, or between places in the United States through a foreign country; or (B) between any place in the United States and any place in a Territory or possession of the United States insofar as such transportation takes place within the United States. The term "foreign commerce" also includes transportation between places in a foreign country, or between a place in one foreign country and a place in another foreign country, insofar as such transportation takes place within the United States, but only for purposes of the application, to carriers engaged in such transportation, of the following provisions of this part: Section 215 (which relates to insurance for the protection of the public), section 221 (which relates to designation of an agent for service of process), and those provisions of section 204 which relate to qualifications and maximum hours of service of employees and safety of operation and equipment.

(12) The term "highway" means the roads, highways, streets, and ways in any State.

(13) The term "motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Commission, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.

(14) The term "common carrier by motor vehicle" means any person which holds itself out of the general public to engage in the transportation by motor vehicle in interstate or foreign commerce of

passengers or property or any class or classes thereof for compensation, whether over regular or irregular routes, except transportation by motor vehicle by an express company to the extent that such transportation has heretofore been subject to part I, to which extent such transportation shall continue to be considered to be and shall be regulated as transportation subject to part I.

(15) The term "contract carrier by motor vehicle" means any person which engages in transportation by motor vehicle of passengers or property in interstate or foreign commerce, for compensation (other than transportation referred to in paragraph (14) and the exception therein), under continuing contracts with one person or a limited number of persons either (a) for the furnishing of transportation services through the assignment of motor vehicles for a continuing period of time to the exclusive use of each person served or (b) for the furnishing of transportation services designed to meet the distinct need for each individual customer.

(16) The term "motor carrier" includes both a common carrier by motor vehicle and a contract carrier by motor vehicle.

(17) The term "private carrier of property by motor vehicle" means any person not included in the terms "common carrier by motor vehicle" or "contract carrier by motor vehicle", who or which transports in interstate or foreign commerce by motor vehicle property of which such person is the owner, lessee, or bailee, when such transportation is for the purpose of sale, lease, rent, or bailment, or in furtherance of any commercial enterprise.

(18) The term "broker" means any person not included in the term "motor carrier" and not a bona fide employee or agent of any such carrier, who or which, as principal or agent, sells or offers for sale any transportation subject to this part, or negotiates for, or holds himself or itself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for such transportation.

(19) The "services" and "transportation" to which this part applies include all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or of contract, express or implied, together with all facilities and property operated or controlled by any such carrier or carriers and used in the transportation of passengers or property in interstate or foreign commerce or in the performance of any service in connection therewith.

(20) The term "interstate operation" means any operation in interstate commerce.

(21) The term "foreign operation" means any operation in foreign commerce.

(22) The term "carrier of migrant workers by motor vehicle" means any person, including any "contract carrier by motor vehicle", but not including any "common carrier by motor vehicle", who or which transports in interstate or foreign commerce at any one time three or more migrant workers to or from their employment by any motor vehicle other than a passenger automobile or station wagon, except migrant workers transporting themselves or their immediate families.

(23) The term "migrant worker" means any individual proceeding to or returning from employment in agriculture as defined in section 3 (f) of the Fair Labor Standards Act of 1938, as amended (29 U. S. C. 203 (f)), or section 3121 (g) of the Internal Revenue Code of 1954 (26 U. S. C. 3121 (g)).

(b) Nothing in this part, except the provisions of section 204 relative to qualifications and maximum hours of service of employees and safety of operation or standards of equipment shall be construed to include (1) motor vehicles employed solely in transporting school children and teachers to or from school; or (2) taxicabs, or other motor vehicles performing a bona fide taxicab service, having a capacity of not more than six passengers and not operated on a regular route or between fixed termini; or (3) motor vehicles owned or operated by or on behalf of hotels and used exclusively for the transportation of hotel patrons between hotels and local railroad or other common carrier stations; or (4) motor vehicles operated, under authorization, regulation, and control of the Secretary of the Interior, principally for the purpose of transporting persons in and about the national parks and national monuments; or (4a) motor vehicles controlled and operated by any farmer when used in the transportation of his agricultural (including horticultural) commodities and products thereof, or in the transportation of supplies to his farm; or (5) motor vehicles controlled and operated by a cooperative association as defined in the Agricultural Marketing Act, approved June 15, 1929, as amended, or by a federation of such cooperative associations, if such federation possesses no greater powers or purposes than cooperative associations so defined; or (6) motor vehicles used in carrying property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof), if such motor vehicles are not used in carrying any other property, or passengers, for compensation : *Provided, That the words "property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" as used herein shall include property shown as "Exempt" in the "Commodity List" incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as "Not exempt": Provided further, however, That notwithstanding the preceding proviso the words "property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" shall not be deemed to include frozen fruits, frozen berries, or frozen vegetables and shall be deemed to include fish or shell fish, and fresh or frozen products thereof containing seafood as the basic ingredient, whether breaded, cooked or otherwise prepared (but not including fish and shell fish which have been treated for preserving, such as canned, smoked, salted, pickled, spiced, corned or kippered products);* or (7) motor vehicles used exclusively in the distribution of newspapers; or (7a) the transportation of persons or property by motor vehicle when incidental to transportation by aircraft nor, unless and to the extent that the Commission shall from time to time find that such application is necessary to carry out the national transportation policy declared in this Act, shall the provisions of this part, except the provisions of section 204 relative to qualifications and maximum hours of service of employees and safety of operation or standards of equipment apply to: (8) The transportation of passengers or property in interstate or foreign commerce wholly within a municipality or between contiguous municipalities or within a zone adjacent to and commercially a part of any such municipality or municipalities, except when such transportation

is under a common control, management, or arrangement for a continuous carriage or shipment to or from a point without such municipality, municipalities, or zone, and provided that the motor carrier engaged in such transportation of passengers over regular or irregular route or routes in interstate commerce is also lawfully engaged in the intrastate transportation of passengers over the entire length of such interstate route or routes in accordance with the laws of each State having jurisdiction; or (9) the casual, occasional, or reciprocal transportation of passengers or property by motor vehicle in interstate or foreign commerce for compensation by any person not engaged in transportation by motor vehicle as a regular occupation or business, unless, in the case of transportation of passengers, such transportation is sold or offered for sale, or provided or procured or furnished or arranged for, by a broker, or by any other person who sells or offers for sale transportation furnished by a person lawfully engaged in the transportation of passengers by motor vehicle under a certificate or permit issued under this part or under a pending application for such a certificate or permit.

(c) Except as provided in section 202 (c), section 203 (b), in the exception in section 203 (a) (14), and in the second proviso in section 206 (a) (1), no person shall engage in any for-hire transportation business by motor vehicle, in interstate or foreign commerce, on any public highway or within any reservation under the exclusive jurisdiction of the United States, unless there is in force with respect to such person a certificate or a permit issued by the Commission authorizing such transportation, *nor shall any person in connection with any other business enterprise transport property by motor vehicle in interstate or foreign commerce unless such transportation is incidental to, and in furtherance of, a primary business enterprise (other than transportation) of such person.*

* * * * *

PART V

PURPOSE

SEC. 501. It is the purpose of this part to provide for assistance to common carriers by railroad subject to this Act to aid them in acquiring, constructing, or maintaining facilities and equipment for such purposes, and in such a manner, as to encourage the employment of labor and to foster the preservation and development of a national transportation system adequate to meet the needs of the commerce of the United States, of the postal service, and of the national defense.

DEFINITIONS

SEC. 502. For the purposes of this part—

(a) The term "Commission" means the Interstate Commerce Commission.

(b) The term "additions and betterments or other capital expenditures" means expenditures for the acquisition or construction of property used in transportation service, chargeable to the road, property, or equipment investment accounts, in the Uniform System of Accounts prescribed by the Interstate Commerce Commission.

(c) The term "expenditures for maintenance of property" means expenditures for labor, materials, and other costs incurred in maintaining, repairing, or renewing equipment, road, or property used in transportation service chargeable to operating expenses in accordance with the Uniform System of Accounts prescribed by the Commission.

LOAN GUARANTIES

SEC. 503. In order to carry out the purpose declared in section 501, the Commission, upon terms and conditions prescribed by it and consistent with the provisions of this part, may guarantee in whole or in part any public or private financing institution, or trustee under a trust indenture or agreement for the benefit of the holders of any securities issued thereunder, by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan, discount, or advance, or on any commitment in connection therewith, which may be made, or which may have been made, for the purpose of aiding any common carrier by railroad subject to this Act in the financing or refinancing (1) of additions and betterments or other capital expenditures, made after January 1, 1957, or to reimburse the carrier for expenditures made from its own funds for such additions and betterments or other capital expenditures, or (2) of expenditures for the maintenance of property.

LIMITATIONS

SEC. 504. (a) No guaranty shall be made under section 503—

(1) Unless the Commission is of the opinion that without such guaranty, in the amount thereof, the carrier would be unable to obtain necessary funds, on reasonable terms, for the purposes for which the loan is sought.

(2) If the loan involved is at a rate of interest which, in the judgment of the Commission, is unreasonably high, or if the terms of such loan permit full repayment more than fifteen years after the date thereof.

(3) For any loan for expenditures for maintenance of property, if the principal of such loan, or the total of such principal and the unpaid principal of all other loans to the common carrier concerned for expenditures for maintenance of property guaranteed under this Act, exceeds 50 per centum of the aggregate amount charged in the accounts of such carrier for expenditures for maintenance of property during the calendar year next preceding the date of the application for such guaranty.

(b) It shall be unlawful for any common carrier by railroad subject to this Act to declare any dividend on its preferred or common stock while there is any principal or interest remaining unpaid on any loan to such carrier made for the purpose of financing or refinancing expenditures for maintenance of property of such carrier, and guaranteed under this part.

MODIFICATIONS

SEC. 505. The Commission may consent to the modification of the provisions as to rate of interest, time or payment of interest or principal, security, if any, or other terms and conditions of any guaranty which it shall have entered into pursuant to this part, or the renewal or extension of

any such guaranty, whenever the Commission shall determine it to be equitable to do so.

PAYMENT OF GUARANTIES; ACTION TO RECOVER PAYMENTS MADE

SEC. 506. (a) *Payments required to be made as a consequence of any guaranty by the Commission made under this part shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for the purpose of carrying out the provisions of this part.*

(b) *In the event of any default on any such guaranteed loan, and payment in accordance with the guaranty by the United States, the Attorney General shall take such action as may be appropriate to recover the amount of such payments, with interest, from the defaulting carrier, carriers, or other persons liable therefor.*

GUARANTY FEES

SEC. 507. *The Commission shall prescribe and collect a guaranty fee in connection with each loan guaranteed under this part. Such fees shall not exceed such amounts as the Commission estimates to be necessary to cover the administrative costs of carrying out the provisions of this part. Sums realized from such fees shall be deposited in the Treasury as miscellaneous receipts.*

ASSISTANCE OF DEPARTMENTS OR OTHER AGENCIES

SEC. 508. (a) *To permit it to make use of such expert advice and services as it may require in carrying out the provisions of this part, the Commission may use available services and facilities of departments and other agencies and instrumentalities of the Government, with their consent and on a reimbursable basis.*

(b) *Departments, agencies, and instrumentalities of the Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this part.*

ADMINISTRATIVE EXPENSES

SEC. 509. *Administrative expenses under this part shall be paid from appropriations made to the Commission for administrative expenses.*

TERMINATION OF AUTHORITY

SEC. 510. *The authority granted by this part shall terminate at the close of March 31, 1961, except that its provisions shall remain in effect thereafter for the purposes of guaranties made by the Commission prior to that time.*



85TH CONGRESS
2D SESSION

H. R. 12832

[Report No. 1922]

IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 1958

Mr. HARRIS introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

JUNE 18, 1958

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

A BILL

To amend the Interstate Commerce Act so as to strengthen and improve the national transportation system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Transportation Act of
4 1958".

5 AMENDMENT TO INTERSTATE COMMERCE ACT, RELATING
6 TO LOAN GUARANTIES

7 SEC. 2. The Interstate Commerce Act, as amended, is
8 amended by inserting immediately after part IV thereof the
9 following new part:

1 "PART V

2 "PURPOSE

3 "SEC. 501. It is the purpose of this part to provide for
4 assistance to common carriers by railroad subject to this Act
5 to aid them in acquiring, constructing, or maintaining facili-
6 ties and equipment for such purposes, and in such a manner,
7 as to encourage the employment of labor and to foster the
8 preservation and development of a national transportation
9 system adequate to meet the needs of the commerce of the
10 United States, of the postal service, and of the national
11 defense.

12 "DEFINITIONS

13 "SEC. 502. For the purposes of this part—

14 "(a) The term 'Commission' means the Interstate
15 Commerce Commission.

16 "(b) The term 'additions and betterments or other
17 capital expenditures' means expenditures for the acquisi-
18 tion or construction of property used in transportation serv-
19 ice, chargeable to the road, property, or equipment invest-
20 ment accounts, in the Uniform System of Accounts pre-
21 scribed by the Interstate Commerce Commission.

22 "(c) The term 'expenditures for maintenance of prop-
23 erty' means expenditures for labor, materials, and other costs
24 incurred in maintaining, repairing, or renewing equipment,
25 road, or property used in transportation service chargeable

1 to operating expenses in accordance with the Uniform Sys=
2 tem of Accounts prescribed by the Commission.

3 "LOAN GUARANTIES

4 "SEC. 503. In order to carry out the purpose de=
5 clared in section 501, the Commission, upon terms and
6 conditions prescribed by it and consistent with the provisions
7 of this part, may guarantee in whole or in part any public
8 or private financing institution, or trustee under a trust
9 indenture or agreement for the benefit of the holders of any
10 securities issued thereunder, by commitment to purchase,
11 agreement to share losses, or otherwise, against loss of
12 principal or interest on any loan, discount, or advance, or
13 on any commitment in connection therewith, which may be
14 made, or which may have been made, for the purpose of
15 aiding any common carrier by railroad subject to this Act in
16 the financing or refinancing (1) of additions and betterments
17 or other capital expenditures, made after January 1, 1957,
18 or to reimburse the carrier for expenditures made from its
19 own funds for such additions and betterments or other capi=
20 tal expenditures, or (2) of expenditures for the maintenance
21 of property.

22 "LIMITATIONS

23 "SEC. 504. (a) No guaranty shall be made under
24 section 503—

25 "(1) Unless the Commission is of the opinion that

1 without such guaranty, in the amount thereof, the
2 carrier would be unable to obtain necessary funds, on
3 reasonable terms, for the purposes for which the loan
4 is sought.

5 “(2) If the loan involved is at a rate of interest
6 which, in the judgment of the Commission, is unreason-
7 ably high, or if the terms of such loan permit full re-
8 payment more than fifteen years after the date thereof.

9 “(3) For any loan for expenditures for maintenance
10 of property, if the principal of such loan, or the total of
11 such principal and the unpaid principal of all other
12 loans to the common carrier concerned for expenditures
13 for maintenance of property guaranteed under this Act,
14 exceeds 50 per centum of the aggregate amount charged
15 in the accounts of said carrier for expenditures for
16 maintenance of property during the calendar year next
17 preceding the date of the application for such guaranty.

18 “(b) It shall be unlawful for any common carrier by
19 railroad subject to this Act to declare any dividend on its
20 preferred or common stock while there is any principal or
21 interest remaining unpaid on any loan to such carrier made
22 for the purpose of financing or refinancing expenditures for

1 maintenance of property of such carrier, and guaranteed
2 under this part.

3 "MODIFICATIONS

4 "SEC. 505. The Commission may consent to the modi-
5 fication of the provisions as to rate of interest, time or pay-
6 ment of interest or principal, security, if any, or other terms
7 and conditions of any guaranty which it shall have entered
8 into pursuant to this part, or the renewal or extension of any
9 such guaranty, whenever the Commission shall determine
10 it to be equitable to do so.

11 "PAYMENT OF GUARANTIES; ACTION TO RECOVER PAYMENTS
12 MADE

13 "SEC. 506. (a) Payments required to be made as a
14 consequence of any guaranty by the Commission made under
15 this part shall be made by the Secretary of the Treasury
16 from funds hereby authorized to be appropriated in such
17 amounts as may be necessary for the purpose of carrying
18 out the provisions of this part.

19 "(b) In the event of any default on any such guaran-
20 teed loan, and payment in accordance with the guaranty
21 by the United States, the Attorney General shall take such
22 action as may be appropriate to recover the amount of such

1 payments, with interest, from the defaulting carrier, carriers,
2 or other persons liable therefor.

3 "GUARANTY FEES

4 "SEC. 507. The Commission shall prescribe and collect
5 a guaranty fee in connection with each loan guaranteed
6 under this part. Such fees shall not exceed such amounts
7 as the Commission estimates to be necessary to cover the
8 administrative costs of carrying out the provisions of this
9 part. Sums realized from such fees shall be deposited in the
10 Treasury as miscellaneous receipts.

11 "ASSISTANCE OF DEPARTMENTS OR OTHER AGENCIES

12 "SEC. 508. (a) To permit it to make use of such expert
13 advice and services as it may require in carrying out the
14 provisions of this part, the Commission may use available
15 services and facilities of departments and other agencies and
16 instrumentalities of the Government, with their consent and
17 on a reimbursable basis.

18 "(b) Departments, agencies, and instrumentalities of the
19 Government shall exercise their powers, duties, and functions
20 in such manner as will assist in carrying out the objectives
21 of this part.

22 "ADMINISTRATIVE EXPENSES

23 "SEC. 509. Administrative expenses under this part shall
24 be paid from appropriations made to the Commission for
25 administrative expenses.

1 "TERMINATION OF AUTHORITY

2 "SEC. 510. The authority granted by this part shall
3 terminate at the close of March 31, 1961, except that its
4 provisions shall remain in effect thereafter for the purposes
5 of guaranties made by the Commission prior to that time."

6 AMENDMENTS TO SECTION 1 OF INTERSTATE COMMERCE
7 ACT

8 SEC. 3. Section 1 of the Interstate Commerce Act, as
9 amended, is amended (1) by inserting in subparagraph
10 (a) of paragraph (2) thereof, after the word "aforesaid"
11 and before the semicolon following that word, a comma and
12 the words "except as otherwise provided in this part" and
13 (2) by striking out the period at the end of the proviso
14 in subparagraph (a) of paragraph (17) thereof and in-
15 serting in lieu thereof the following: "and except as other-
16 wise provided in this part."

17 NEW SECTION 13A OF INTERSTATE COMMERCE ACT

18 SEC. 4. The Interstate Commerce Act, as amended, is
19 amended by inserting after section 13 thereof a new section
20 13a as follows:

21 "DISCONTINUANCE OR CHANGE OF CERTAIN OPERATIONS
22 OR SERVICES

23 "SEC. 13a. (1) A carrier or carriers subject to this part,
24 if their rights with respect to the discontinuance or change,
25 in whole or in part, of the operation or service of any train or

1 ferry engaged in the transportation of passengers or property
2 in interstate, foreign and intrastate commerce, or any of them,
3 or of the operation or service of any station, depot or other
4 facility where passengers or property are received for trans-
5 portation in interstate, foreign and intrastate commerce, or
6 any of them, are subject to any provision of the constitution
7 or statutes of any State or any regulation or order of (or
8 are the subject of any proceeding pending before) any court
9 or an administrative or regulatory agency of any State, may,
10 but shall not be required to, file with the Commission, mail
11 to the Governor of each State in which such train, ferry,
12 train or ferry station, depot or other facility is operated, and
13 post in every station, depot or other facility directly affected
14 served thereby, notice at least thirty days in advance of any
15 such proposed discontinuance or change. The carrier or
16 carriers filing such notice may discontinue or change any
17 such operation or service pursuant to such notice except as
18 otherwise ordered by the Commission pursuant to this sec-
19 tion, the laws or constitution of any State, or the decision
20 or order of, or the pendency of any proceeding before, any
21 court or State authority to the contrary notwithstanding.
22 Upon the filing of such notice the Commission shall have
23 authority during said thirty days' notice period, either upon
24 complaint or upon its own initiative without complaint, to
25 enter upon an investigation of the proposed discontinuance

1 or change. Upon the institution of such investigation, the
2 Commission, by order served upon the carrier or carriers
3 affected thereby at least ten days prior to the day on which
4 such discontinuance or change would otherwise become effec-
5 tive, may require such ~~train, ferry, train or ferry station,~~
6 ~~depot, or other facility~~ to be continued in operation or serv-
7 ice, in whole or in part, pending hearing and decision in
8 such investigation, but not for a longer period than four
9 months beyond the date when such discontinuance or change
10 would otherwise have become effective. If, after hearing in
11 such investigation, whether concluded before or after such
12 discontinuance or change has become effective, the Com-
13 mission finds that the operation or service of such ~~train,~~
14 ~~ferry, train or ferry station, depot, or other facility~~ is re-
15 quired by public convenience and necessity and that such
16 operation or service will not result in a net loss therefrom to
17 the carrier or carriers and will not otherwise unduly burden
18 interstate or foreign commerce, the Commission may by
19 order require the continuance or restoration of operation or
20 service of such ~~train, ferry, train or ferry station, depot, or~~
21 ~~other facility~~, in whole or in part, for a period not to exceed
22 one year from the date of such order. The provisions of
23 this section shall not supersede the laws of any State or the
24 orders or regulations of any administrative or regulatory
25 body of any State applicable to such discontinuance or

1 change unless notice as in this section provided is filed with
2 the Commission. On the expiration of an order by the Com-
3 mission after such investigation requiring the continuance or
4 restoration of operation or service, the jurisdiction of any
5 State as to such discontinuance or change shall no longer be
6 superseded unless the procedure provided by this section
7 shall again be invoked by the carrier or carriers.

8 “(2) The provisions of this section shall not apply to
9 the operations of or services performed by any carrier by
10 railroad on a line of railroad located wholly within a single
11 State.

12 “(3) The Commission, in cooperation with State utili-
13 ties commissions, shall make a study of the passenger train
14 deficit problem and report thereon to the Congress not later
15 than June 30, 1959, together with such recommendations
16 as the Commission deems to be necessary or appropriate.”

17 AMENDMENT TO SECTION 15A OF THE INTERSTATE
18 COMMERCE ACT

19 SEC. 5. Section 15a of the Interstate Commerce Act, as
20 amended, is amended by inserting after paragraph (2)
21 thereof a new paragraph (3) as follows:

22 “(3) In a proceeding involving competition between
23 carriers of different modes of transportation, subject to this
24 Act, the Commission, in determining whether a rate is lower
25 than a reasonable minimum rate, shall consider the facts

1 and circumstances attending the movement of the traffic
2 by the carrier or carriers to which the rate is applicable.
3 Rates of a carrier shall not be held up to a particular level
4 to protect the traffic of any other mode of transportation,
5 giving due consideration to the objectives of the national
6 transportation policy declared in this Act.”

7 AMENDMENT TO SECTION 203 (B) OF INTERSTATE
8 COMMERCE ACT

9 SEC. 6. (a) Clause (6) of subsection (b) of section
10 203 of the Interstate Commerce Act, as amended, is
11 amended by striking out the semicolon at the end thereof
12 and inserting in lieu thereof a colon and the following:
13 “*Provided*, That the words ‘property consisting of ordinary
14 livestock, fish (including shell fish), or agricultural (in-
15 cluding horticultural) commodities (not including manu-
16 factured products thereof)’ as used herein shall include
17 property shown as ‘Exempt’ in the ‘Commodity List’ incor-
18 porated in ruling numbered 107, March 19, 1958, Bureau
19 of Motor Carriers, Interstate Commerce Commission, but
20 shall not include property shown therein as ‘Not exempt’:
21 *Provided further, however*, That notwithstanding the pre-
22 ceding proviso the words ‘property consisting of ordinary
23 livestock, fish (including shell fish), or agricultural (in-
24 cluding horticultural) commodities (not including manufac-
25 tured products thereof)’ shall not be deemed to include

1 frozen fruits, frozen berries, ~~or frozen vegetables~~ *vegetables*,
2 *coffee, tea, cocoa or hemp, and wool imported from any for-*
3 *ign country or wool, cleaned or scoured, wool tops and*
4 *noils, or wool waste, carded but not spun, woven or knitted*
5 and shall be deemed to include fish or shell fish, and fresh
6 or frozen products thereof containing seafood as the basic
7 ingredient, whether breaded, cooked or otherwise prepared
8 (but not including fish and shell fish which have been
9 treated for preserving, such as canned, smoked, salted,
10 pickled, spiced, corned or kippered products) ;”.

11 (b) Unless otherwise specifically indicated therein, the
12 holder of any certificate or permit heretofore issued by the
13 Interstate Commerce Commission, or hereafter so issued
14 pursuant to an application filed on or before the date on
15 which this section takes effect, authorizing the holder thereof
16 to engage as a common or contract carrier by motor vehicle
17 in the transportation in interstate or foreign commerce of
18 property made subject to the provisions of part II of the
19 Interstate Commerce Act by paragraph (a) of this section,
20 over any route or routes or within any territory, may without
21 making application under that Act engage, to the same
22 extent and subject to the same terms, conditions and limi-
23 tations, as a common or contract carrier by motor vehicle,
24 as the case may be, in the transportation of such property,

1 over such route or routes or within such territory, in inter-
2 state or foreign commerce.

3 (c) Subject to the provisions of section 210 of the
4 Interstate Commerce Act, if any person (or its predecessor
5 in interest) was in bona fide operation on June 1, 1958,
6 over any route or routes or within any territory, in the
7 transportation of property for compensation by motor ve-
8 hicle made subject to the provisions of part II of that Act
9 by paragraph (a) of this section, in interstate or foreign
10 commerce, and has so operated since that time (or if en-
11 gaged in furnishing seasonal service only, was in bona
12 fide operation on June 1, 1958, during the season
13 ordinarily covered by its operations and has so operated
14 since that time), except in either instance as to interruptions
15 of service over which such applicant or its predecessor in
16 interest had no control, the Interstate Commerce Commis-
17 sion shall without further proceedings issue a certificate or
18 permit, as the type of operation may warrant, authorizing
19 such operations as a common or contract carrier by motor ve-
20 hicle if application is made to the said Commission as pro-
21 vided in part II of the Interstate Commerce Act and within
22 one hundred and twenty days after the date on which this
23 section takes effect. Pending the determination of any such
24 application, the continuance of such operation without a

1 certificate or permit shall be lawful. Any carrier which on
2 the date this section takes effect is engaged in an operation
3 of the character specified in the foregoing provisions of this
4 paragraph, but was not engaged in such operation on June
5 1, 1958, may under such regulations as the Interstate Com-
6 merce Commission shall prescribe, if application for a cer-
7 tificate or permit is made to the said Commission within one
8 hundred and twenty days after the date on which this section
9 takes effect, continue such operation without a certificate or
10 permit pending the determination of such application in
11 accordance with the provisions of part II of the Interstate
12 Commerce Act.

13 AMENDMENT TO SECTION 203 (C) OF INTERSTATE COM-
14 MERCE ACT

15 SEC. 7. Subsection (c) of section 203 of the Interstate
16 Commerce Act, as amended, is amended by striking out the
17 period at the end thereof and inserting in lieu of such period
18 a comma and the following: "nor shall any person in connec-
19 tion with any other business enterprise transport property
20 by motor vehicle in interstate or foreign commerce unless
21 such transportation is incidental to, and in furtherance of, a
22 primary business enterprise (other than transportation) of
23 such person."

85TH CONGRESS
2D SESSION

H. R. 12832

[Report No. 1922]

A BILL

To amend the Interstate Commerce Act so as to strengthen and improve the national transportation system, and for other purposes.

By Mr. HARRIS

JUNE 5, 1958

Referred to the Committee on Interstate and Foreign
Commerce

JUNE 18, 1958

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued June 26, 1958
For actions of June 25, 1958
85th-2d, No. 105

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HIGHLIGHTS: House Rules Committee cleared farm bill. To be debated today. Senate committee ordered reported bill for increased industrial uses of farm products. Senate committee reported measure to extend special milk program for 60 days. House committee ordered reported food stamp bill. Sen. Humphrey spoke against Senate Committee farm bill. Both Houses adopted conference report on State-Justice appropriation bill. Rep. Quie introduced and discussed measure to extend special milk program for 90 days.

HOUSE

1. FARM PROGRAM. The Rules Committee granted an open rule with 5 hours of debate and waiving points of order against H. R. 12954, the omnibus farm bill. Rep. McCormack announced that debate on the bill will begin today, June 26. pp. 11106, D594, 11088
2. FOOD STAMPS. The Agriculture Committee ordered reported H. R. 13054, to direct the Secretary to establish a food stamp plan. p. D593
3. APPROPRIATIONS. Agreed to the conference report on H. R. 12428, the State-Justice appropriation bill for 1959, and acted on amendments in disagreement. p. 11065
Conferees were appointed on H. R. 11645, the Labor-HEW appropriation bill for 1959. Senate conferees were appointed June 20. p. 11063

4. **TRANSPORTATION.** The Rules Committee granted an open rule with 2 hours debate on H. R. 12832, to amend the Interstate Commerce Act so as to strengthen and improve the national transportation system. pp. 11105, D594
Rep. Rogers, Fla., urged adoption of a Senate amendment to H. R. 12695, the excise-tax rate extension bill, which would repeal the tax on transportation. p. 11064
5. **SMALL BUSINESS.** The Banking and Currency Committee ordered reported with amendment S. 3651, to make equity capital and long-term credit more readily available for small-business concerns. p. D593
Rep. Derounian inserted a constituents' letter commending the work of the Small Business Administration. pp. 11100-01
6. **PROPERTY.** The Government Operations Committee ordered reported H. R. 12165, to extend for 2 years the period for which payments in lieu of taxes may be made on certain real property transferred by RFC to other Government agencies. p. D593
7. **PUBLIC WORKS.** Agreed to the conference report on S. 3910, the rivers and harbors, and flood control authorization bill. The Senate had agreed to the report earlier. This bill will now be sent to the President. pp. 11094-96, 11022-25
8. **RECLAMATION.** The "Daily Digest" states as follows: "Committee on Interior and Insular Affairs: Considered and began reading for amendment H. R. 594, to authorize the construction, operation, and maintenance of the Fryingpan-Arkansas project, Colorado. Thereafter rejected by a vote of 15-5 a motion to recommit the bill to Subcommittee on Irrigation and Reclamation. A point of order was then made and sustained of no quorum and meeting was adjourned." p. D593
9. **BUILDING SPACE.** Agreed to a concurrent resolution, S. Con. Res. 95, authorizing the correction of an error in the enrollment of S. 2533, to authorize GSA to lease space for Federal agencies for periods not exceeding 10 years. p. 11097
10. **NATURAL RESOURCES.** Concurred in the Senate amendments to H. R. 8054, to provide for the leasing of oil and gas deposits in lands beneath nontidal navigable waters in Alaska. This bill will now be sent to the President. pp. 11097-11100
11. **WHEAT.** Rep. Mumma inserted a newspaper article, "Wheatgrowers Favor Quotas for 1959 - Lebanon County Farmers, in Light Ballot, Vote No on Controls Issue." p. 11101
12. **WILDLIFE.** Both Houses received from Interior a proposed bill "to revise the Alaska game law and to provide for the protection of marine mammals on and off the coast of Alaska"; to Interior and Insular Affairs Committees. pp. 10996, 11105.
13. **LEGISLATIVE PROGRAM.** Rep. McCormack announced that after consideration of the farm bill, the omnibus transportation bill, H. R. 12832, will be considered under suspension of the rules. He also announced that H. R. 4504, to improve marketing facilities for perishable commodities, has been taken off the program and will not be considered this week. p. 11088

Mrs. KELLY of New York and to include extraneous matter.

Mrs. KNUYSON.

Mr. BREEDING and to include extraneous matter.

Mr. LOSER and to include extraneous matter.

Mr. BOYKIN and to include a statement appearing in the Times-Picayune.

Mr. ABERNETHY and to include an editorial.

Mr. FEIGHAN in four instances and to include extraneous matter.

Mr. MICHEL and to include an editorial.

Mr. RIEHLMAN and to include extraneous matter.

Mr. CURTIN and to include an editorial.

Mr. SCHWENGEL and to include an editorial.

Mr. BYRNE of Illinois and to include an article appearing in the Chicago Daily News.

Mr. NEAL.

Mr. WAINWRIGHT in the body of the RECORD following the colloquy between Mr. BONNER and Mr. BARDEN.

Mr. ARENDS.

Mr. DOWDY and to include extraneous matter.

Mr. GREEN of Pennsylvania (at the request of Mr. ALBERT).

Mr. HAYS of Arkansas (at the request of Mr. ALBERT) in three instances.

Mr. HÉBERT (at the request of Mr. ALBERT).

Mr. KING (at the request of Mr. ALBERT).

Mr. ROOSEVELT (at the request of Mr. ALBERT).

Mr. FLOOD (at the request of Mr. ALBERT) in four instances.

Mr. CHRISTOPHER (at the request of Mr. ALBERT), to revise and extend the remarks he will make under a special order on Monday, June 30, 1958, and include extraneous matter.

Mr. O'HARA of Illinois in three instances, in each to include related matter.

Mr. VANIK in two instances and to include extraneous matter.

Mr. METCALF in two instances and to include extraneous matter.

Mr. MADDEN and to include an editorial.

Mr. BENNETT of Florida in three instances and to include extraneous matter.

Mr. SHEEHAN.

Mrs. ST. GEORGE and to include an article.

Mr. VURSELL in two instances and to include extraneous matter.

Mr. SAYLOR in the body of the RECORD after consideration of the bill H. R. 8054.

Mr. DAWSON of Utah (at the request of Mr. MARTIN) and to include extraneous matter.

Mr. MAY (at the request of Mr. MARTIN) and to include extraneous matter.

Mr. MOORE and to include extraneous matter.

Mr. CHAMBERLAIN and to include extraneous matter.

Mrs. GREEN of Oregon in two instances and to include extraneous matter.

Mr. LANE in four instances and to include extraneous matter.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1706. An act to amend the act entitled "An act to grant additional powers to the Commissioners of the District of Columbia, and for other purposes," approved December 20, 1944, as amended.

ADJOURNMENT

Mr. ALBERT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 43 minutes p. m.) the House adjourned until tomorrow, Thursday, June 26, 1958, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2062. A letter from the Assistant Secretary of Defense (Supply and Logistics), transmitting reports on Army, Navy, and Air Force prime-contract awards to small and other business firms for work in the United States which were completed during the first 10 months of fiscal year 1958, pursuant to Public Law 268, 84th Congress; to the Committee on Banking and Currency.

2063. A letter from the Under Secretary of the Interior, transmitting a draft of proposed legislation entitled "A bill to revise the Alaska game law and to provide for the protection of marine mammals on and off the coast of Alaska"; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HAYS of Ohio: Committee on House Administration. House Resolution 581. Resolution authorizing the printing of additional copies of the hearings on astronautics and space exploration; without amendment (Rept. No. 1983). Ordered to be printed.

Mr. BROOKS of Louisiana: Committee on Armed Services. H. R. 781. A bill to make the retirement benefits of the Army and Air Force Vitalization and Retirement Equalization Act of 1948 available to certain persons who rendered active Federal service during the Korean conflict; with amendment (Rept. No. 1984). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS of Louisiana: Committee on Armed Services. H. R. 8775. A bill to amend section 709 of title 32, United States Code; with amendment (Rept. No. 1985). Referred to the Committee of the Whole House on the State of the Union.

Mr. O'BRIEN of New York: Committee on Interior and Insular Affairs. H. R. 4675. A bill to provide that certain employees under the jurisdiction of the commissioner of public lands and those under the jurisdiction of the Board of Harbor Commissioners of the Territory of Hawaii shall be subject to the civil service laws of the Territory of Hawaii; with amendment (Rept. No. 1986). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS of Louisiana: Committee on Armed Services. S. 2630. An act to authorize the Secretary of Defense to lend certain

Army, Navy, and Air Force equipment, and to provide certain services to the Girl Scouts of the United States of America, and to permit use of certain lands of the Air Force Academy for use at the Girl Scout senior roundup encampment, and for other purposes; without amendment (Rept. No. 1987). Referred to the Committee of the Whole House on the State of the Union.

Mr. HARRIS: Committee on Interstate and Foreign Commerce. S. 1380. An act to authorize the imposition of civil penalties for violation of the security provisions of the Civil Aeronautics Act of 1938, and for other purposes; without amendment (Rept. No. 1995). Referred to the House Calendar.

Mr. FRIEDEL: Committee on House Administration. House Resolution 572. Resolution authorizing additional expenses for the Committee on Veterans' Affairs; without amendment (Rept. No. 1996). Ordered to be printed.

Mr. FRIEDEL: Committee on House Administration. House Resolution 599. Resolution authorizing further funds for the operation of the Committee on Un-American Activities during the calendar year 1958; with amendment (Rept. No. 1997). Ordered to be printed.

Mr. FRIEDEL: Committee on House Administration. House Resolution 601. Resolution authorizing amounts for the further expenses of the study and investigation under authority of House Resolution 56, 85th Congress; without amendment (Rept. No. 1998). Ordered to be printed.

Mr. FRIEDEL: Committee on House Administration. House Resolution 567. Resolution authorizing the employment of additional personnel, Office of the Clerk of the House; with amendment (Rept. No. 1999). Ordered to be printed.

Mr. FRIEDEL: Committee on House Administration. House Resolution 428. Resolution establishing a position of a stock and inventory clerk in the stationery room, Office of the Clerk; with amendment (Rept. No. 2000). Ordered to be printed.

Mr. JONES of Missouri: Committee on House Administration. Senate Concurrent Resolution 80. Concurrent resolution accepting the statue of Charles Marlon Russell, presented by the State of Montana, to be placed in Statuary Hall; without amendment (Rept. No. 2001). Ordered to be printed.

Mr. JONES of Missouri: Committee on House Administration. Senate Concurrent Resolution 81. Concurrent resolution to place temporarily in the rotunda of the Capitol a statue of Charles Marion Russell, and to hold ceremonies on said occasion; without amendment (Rept. No. 2002). Ordered to be printed.

Mr. MILLER of California: Committee on Merchant Marine and Fisheries. Report pursuant to section 136 of the Reorganization Act of 1946 pertaining to marine terminal facilities; without amendment (Rept. No. 2003). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS of Louisiana: Committee on Armed Services. H. R. 4381. A bill to authorize the Secretary of the Army to furnish memorial markers commemorating certain deceased members of the Armed Forces, and for other purposes; with amendment (Rept. No. 2004). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 607. Resolution for the consideration of H. R. 11630, a bill to amend title XV of the Social Security Act to extend the unemployment insurance system to servicemen, and for other purposes; without amendment (Rept. No. 2006). Referred to the House Calendar.

Mr. O'NEILL: Committee on Rules. House Resolution 608. Resolution for consideration of H. R. 12832, a bill to amend the Interstate Commerce Act so as to strengthen and improve the national transportation system,

tives Celler, Keating, O'Hara of Illinois, and Senator Douglas. Hearings continue tomorrow.

PRIVATE CLAIMS

Committee on the Judiciary: Subcommittee No. 2 held hearing on several private claim bills.

FISHERIES AND WILDLIFE

Committee on Merchant Marine and Fisheries: Subcommittee on Fisheries and Wildlife ordered favorably reported to the full committee H. R. 10943 (amended), a private bill.

SUPERGRADE POSITIONS

Committee on Post Office and Civil Service: Subcommittee on Manpower Utilization concluded hearings on the need for additional supergrade positions in the Federal Government. Witnesses representing the General Services Administration were heard.

OMNIBUS FARM BILL

Committee on Rules: Granted an open rule with 5 hours of debate and waiving points of order against the bill and committee amendments to H. R. 12954, omnibus farm bill of 1958. Heard on the rule were Representatives Cooley, Harvey, Rooney, Taber, Hoeven, and Hill.

TRANSPORTATION ACT OF 1958

Committee on Rules: Granted an open rule with 2 hours of debate on H. R. 12832, Transportation Act of 1958.

COMMITTEE MEETINGS FOR THURSDAY, JUNE 26

(All meetings are open unless otherwise designated)

Senate

Committee on Appropriations, subcommittee, on H. R. 12738, fiscal 1959 appropriations for the Department of Defense, 10 a. m., room F-39, Capitol;

Subcommittee, executive, on fiscal 1959 appropriations for the Bureau of Reclamation, 2:30 p. m., room F-82, Capitol.

Committee on Armed Services, on H. R. 12541, Defense Department reorganization bill, 10 a. m., 212 Senate Office Building.

Committee on the District of Columbia, Business and Commerce Subcommittee, on S. J. Res. 164, authorizing promulgation of regulations for the period of the Middle Atlantic Shrine Association meeting in September, S. 3941, to amend the D. C. Motor Vehicle Safety Responsibility Act, and S. 3827, relative to D. C. parking facilities, 10 a. m., room P-38, Capitol;

Judiciary Subcommittee, executive, to follow conference meeting on H. R. 7785, room P-38, Capitol.

Committee on Finance, on H. R. 12591, Trade Agreements Extension Act of 1958, 10 a. m., 312 Senate Office Building.

Committee on Foreign Relations, executive, to consider proposals for a broad study of a U. S. foreign policy, 4 p. m., room F-53, Capitol.

Committee on Government Operations, Subcommittee on

Heard on the rule were Representatives Harris and Alger.

UNEMPLOYMENT COMPENSATION

Committee on Rules: In executive session granted an open rule with 2 hours of debate on H. R. 11630, Ex-Servicemen's Unemployment Compensation Act of 1958.

SOCIAL SECURITY ACT

Committee on Ways and Means: Continued general hearings with respect to the Social Security Act. Hearings continue tomorrow.

DEFINITION OF "SMALL BUSINESS"

Select Committee on Small Business: Subcommittee No. 2 resumed hearings with respect to the proposed definition of "small business" as issued by the Small Business Administration. Testimony was received from Wendell Barnes, Administrator, SBA, and public witnesses. Adjourned subject to call of the Chair.

Joint Committee Meetings

MUTUAL SECURITY AUTHORIZATIONS

Conferees met in executive session to consider further the differences between the Senate- and House-passed versions of H. R. 12181, Mutual Security Act of 1958 (the bill having been recommitted to conference by the House on June 24), but did not reach final agreement, and will meet again tomorrow.

Reorganization, on those provisions of S. 3126 which deal with the program for coordination of scientific and technical information, and on S. 4039, to authorize expenditure of funds through grants for support of scientific research (title II of S. 3126), 10 a. m., 357 Senate Office Building.

Committee on Interior and Insular Affairs, executive, on S. 4036, Domestic Minerals Stabilization Act of 1958, and committee print in connection with this proposed legislation, 9:30 a. m., 224 Senate Office Building.

Committee on Interstate and Foreign Commerce, on television study hearings, 10 a. m., room G-16, Capitol.

Committee on Labor and Public Welfare, Subcommittee on Education, on H. R. 11378, to extend financial assistance programs for construction of schools in areas affected by Federal activities, 10 a. m., room P-63, Capitol;

Railroad Retirement Subcommittee, executive, on S. 1313, to increase benefits under the Railroad Retirement Tax Act and Railroad Unemployment Insurance Act, 10 a. m., room F-41, Capitol.

Committee on Post Office and Civil Service, Post Office Subcommittee, on S. 3899, to readjust the size and weight limitations on fourth-class mail matter, 10 a. m., 135 Senate Office Building.

Select Committee on Improper Activities in the Labor or Management Field, on the activities of the International Brotherhood of Carpenters and Joiners, 10 a. m., 318 Senate Office Building.

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued June 30, 1958
For actions of June 27, 1958
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HIGHLIGHTS: Senate concurred in House amendments to employee training bill. House passed omnibus transportation bill. Both Houses agreed to conference report on mutual security authorization bill. House committee reported mutual security appropriation bill. Both Houses passed appropriation continuation measure, including funds for pay raise costs. House committee ordered reported area redevelopment bill.

SENATE

1. APPROPRIATIONS. Both Houses passed without amendment H. J. Res. 640, making temporary appropriations for fiscal year 1958 to pay for Federal employee pay raises, which had been reported earlier in the day by both Houses (S. Rept. 1765) (H. Rept. 2046). pp. 11297, 11348-50, 11395, 11263. This measure will now be sent to the President.
The Appropriations Committee reported with amendments H.R. 12948, the D. C. appropriation bill for 1959 (S. Rept. 1764). p. 11263
2. PERSONNEL. Concurred in the House amendments to S. 385, to provide general legislative authority for the training of Federal employees. pp. 11297-301. This bill will now be sent to the President.
3. FOREIGN AID. Both Houses agreed to the conference report on H. R. 12181, the mutual security authorization bill for 1958. pp. 11317-9, 11341-8. This bill will now be sent to the President.
4. FORESTRY. Sen. Neuberger inserted various letters on S. 3051, the Klamath Indian termination amendment bill, and the testimony of the National Lumber Manufacturers' Ass'n, which he criticized. pp. 11270-6

5. FARM PROGRAM. The Agriculture and Forestry Committee received permission to file a report before midnight, June 28, on an original farm bill. p. 11267
6. STATEHOOD. Continued debate on H. R. 7999, to admit Alaska into the Union as a State. (pp. 11278-84, 11285-96, 11301-11, 11313-6, 11320). Rejected a proposed amendment to provide commonwealth status for Alaska (pp. 11286-90), and overruled a point of order on the future defense land withdrawal section (pp. 11290-6, 11301-8).
7. MINERALS. The Interior and Insular Affairs Committee ordered reported with amendments S. 4036, to provide stabilization payments for the production of certain minerals. p. D606
8. R.E.A. Sen. Humphrey inserted resolutions of the Carlton County, Minn., Cooperative Power Ass'n and the Northern Electric Cooperative Ass'n urging enactment of the legislation to divest the Secretary of control over REA functions. p. 11260
9. RECESSED until Mon., June 30. p. 11328

HOUSE

10. TRANSPORTATION. Passed, 348 to 2, with amendments H. R. 12832, the omnibus transportation bill. pp. 11350-84
Agreed to a committee amendment, as amended by amendments by Reps. Staggers and Roberts, to place under ICC regulation vegetables, coffee, tea, bananas, cocoa or hemp, and wool imported from any foreign country, wool tops and noils, or wool waste, carded but not spun, woven, or knitted. The amendment by Rep. Staggers continues the present exemption of cleaned or scoured wool from ICC regulation. The amendment of Rep. Roberts included bananas in the list of commodities subject to regulation. pp. 11375-7
Rejected amendments by Rep. Miller, Md., to continue the present exemption from ICC regulation of frozen fruits, berries and vegetables, and by Rep. Gubser to restore the existing exemption for frozen fruits, berries, and vegetables in less than carload lots. pp. 11381-2
Substituted the language of H. R. 12832 as passed for that of a similar bill, S. 3778. H. R. 12832 was laid on the table. (pp. 11388-91) Conferees were appointed.
11. TAXATION. Agreed, 366 to 9, to the conference report on H. R. 12695, to extend for 1 year the corporate normal-tax rate and certain excise tax rates, and to repeal the tax on transportation. pp. 11332-41, 11385-6. This bill will now be sent to the President.
12. APPROPRIATIONS. The Appropriations Committee reported without amendment H. R. 13192, the mutual security appropriation bill (H. Rept. 2048). p. 11395
13. FORESTRY. The Agriculture Committee reported without amendment H. R. 12161, to provide for the establishment of townsites from national forest lands (H. Rept. 2044). p. 11394
14. AREA REDEVELOPMENT. The Banking and Currency Committee ordered reported with amendment S. 3683, to establish an effective program to alleviate conditions of substantial unemployment in certain economically depressed areas. p. D608
15. WATER RESOURCES. A subcommittee of the Merchant Marine and Fisheries Committee ordered reported with amendment H. R. 13138, to amend the Coordination Act so as to provide more effective integration of fish and wildlife conservation programs with Federal water resource development programs. p. D608

SEC. 103. Appropriations and funds made available and authority granted pursuant to this title may be used without regard to the time limitations set forth in subsection (d) (2) of section 3679, Revised Statutes, and expenditures therefrom shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 104. No appropriation or fund made available or authority granted pursuant to this title shall be used to initiate or resume any project or activity which was not being conducted during the fiscal year 1958. Appropriations made and authority granted pursuant to this title shall cover all obligations or expenditures incurred for any project or activity during the period for which funds or authority for such project or activity are available under this title.

TITLE II

Increased pay costs

SEC. 201. For costs in the fiscal year 1958 of pay increases granted by or pursuant to Public Laws 85-422, 85-426, and 85-462, for any branch of the Federal Government or the municipal government of the District of Columbia, such amounts as may be necessary, to be determined and made available as hereinafter provided in this title, but no appropriation, fund, limitation, or authorization may be increased pursuant to the provisions of this title in an amount in excess of the cost to such appropriation, fund, limitation, or authorization of increased compensation pursuant to such statutes.

SEC. 202. Any officer having administrative control of an appropriation, fund, limitation, or authorization properly chargeable with the costs in the fiscal year 1958 of pay increases granted by or pursuant to Public Laws 85-422, 85-426, and 85-462, is authorized to transfer thereto, from the unobligated balance of any other appropriation, fund, or authorization under his administrative control and expiring for obligation on June 30, 1958, such amounts as may be necessary for meeting such costs.

SEC. 203. Whenever any officer referred to in section 202 of this title shall determine that he has exhausted the possibilities of meeting the cost of pay increases through the use of transfer as authorized by said section, he shall certify the additional amount required to meet such costs for each appropriation, fund, limitation, or authorization under his administrative control, and the amounts so certified shall be added to the pertinent appropriation, fund, limitation, or authorization for the fiscal year 1958: *Provided*, That any transfer under the authority of section 202 or any certification made under the authority of this section by an officer in or under the executive branch of the Federal Government shall be valid only when approved by the Director of the Bureau of the Budget.

SEC. 204. For the purposes of the transfers and certifications authorized by sections 202 and 203 of this title, the following officers shall be deemed to have administrative control of appropriations, funds, limitations, or authorizations available within their respective organizational units—

(a) For the legislative branch:

The Clerk of the House;
The Secretary of the Senate;
The Librarian of Congress;
The Architect of the Capitol;
The Public Printer;

The Comptroller General of the United States;

The chairman of any commission in or under the legislative branch.

(b) For the judiciary:

The Administrative Officer of the United States Courts.

(c) For the executive branch:

The head of each department, agency, or corporation in or under the executive branch.

(d) For the municipal government of the District of Columbia:

The Board of Commissioners of the District of Columbia.

SEC. 205. Obligations or expenditures incurred for costs in the fiscal year 1958 of pay increases granted by or pursuant to Public Laws 85-422, 85-426, and 85-462, shall not be regarded or reported as violations of section 3679 of the Revised Statutes, as amended (31 U. S. C. 665).

SEC. 206. (a) Amounts made available by this title shall be derived from the same source as the appropriation, fund, limitation, or authorization to which such amounts are added.

(b) Appropriations made by, and transfers made pursuant to, this title shall be recorded on the books of the Government as of June 30, 1958: *Provided*, That no appropriation made by this title shall be warranted, and no transfer authorized by this title shall be made, after August 15, 1958.

(c) A complete report of the appropriations and transfers made by or pursuant to this title shall be made, not later than September 15, 1958, by the officers described in section 204, to the Director of the Bureau of the Budget, who shall compile and transmit to the Congress a consolidated report not later than October 15, 1958.

The SPEAKER. Is a second demanded?

Mr. TABER. I demand a second, Mr. Speaker.

Mr. CANNON. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CANNON. Mr. Speaker, we submit to the House the usual continuing resolution, which is always passed at the end of the fiscal year to provide for operation of those departments for which the annual supply bills have not yet been enacted for the new year beginning next Tuesday. It is a stereotyped resolution, and in the usual form. Nothing need be said on the resolution itself as we have no choice, no alternative, we have to pass it, or close parts of the Government down.

However, it affords us an opportunity to pause for a moment to take stock of where we are, and the condition of the Government as a business institution at the close of the financial year.

I regret to say that the balance sheets of the Treasury show it to be in the worst shape ever. Never before, in peace or in war, has the United States Government been in such desperate financial straits as today. The national debt exceeds all peacetime records. We owe more than we ever owed before as the year ends. And the significant thing is that we haven't been paying anything on the debt, we haven't been reducing the debt. Out of all the record revenues we have been enjoying these last few years, no systematic effort has been made to pay anything on account. We have just kept on spending and spending and spending and when we did not have the money we went out and borrowed more and the debt kept on increasing and increasing and increasing.

The books show that we have spent more this fiscal year we are just closing than we have ever spent in any peacetime year in the history of the United States, or any other country of the world, or all the countries of the world, at any time in the world's history.

Mr. Speaker, I am not being partisan. I make this statement merely to bring to mind a faint appreciation of the colossal sums, carried in the current budget, to give some vague idea of the magnitude of the vast amounts we are spending this year. You will recall that when Mr. Truman submitted to the Congress his last budget, a wartime budget, the agonized protests from the other side of the House ascended to high heaven.

And yet, in true comparison with the Truman budget sent up here in time of war, with our troops in the field, the present peacetime budget is as a summer zephyr to a Texas cyclone.

Leaving aside any invidious comparisons, and confining our attention solely to the matter in hand, from a purely business point of view, we are confronted with an alarming situation. And the most alarming feature of it is that nobody is alarmed. I cannot recall a single instance in which any Member of the House in all the debate on these bills appropriating millions and billions of dollars has considered or referred to a consideration of the effect which the expenditure would have on the balance in the Treasury, the national debt, or the financial preparedness of the Nation for war or other catastrophe.

It has grown unpopular here on the floor to even mention balancing the budget.

And of course it starts, as all national fiscal programs must start, with the recommendations of the administration.

The budget was based on a deficit estimate of \$388 million at the close of the 1958 fiscal year—that is next Monday, June 30.

Later they revised that. They estimated we would be some billions of dollars short.

[In millions of dollars]

	1959 budget is based on	11 months' experi- ence in fiscal year 1958	Better (+) or worse (-) at 11- month point ¹
1. Budget receipts, 1958 compared to 1957.....	+1,371	-1,009	-2,380
2. Budget expenditures, 1958 compared to 1957.....	+3,355	+2,161	+1,194
3. Difference, 1958 compared to 1957.....	+1,984	+3,170	-1,186

¹ Compared to budget estimates.

And today we are hopelessly in the red, and the national debt is growing steadily.

Why are we in the red? We are in the red because this administration has insisted, and the Congress has agreed to spend more money than it ought to spend—or had any need to spend. We have spent money that we did not have and which will have to be paid by our

children, our grandchildren, and our great grandchildren for things we could do without.

The truth of the matter is that if we keep spending at this rate and continue to spend regardless of consequences, we will have to start the printing presses going and print money of such denominations and in such quantities that we will have to carry it around in baskets just as they did in Germany toward the end of the war.

It is not worth much today anyway. The depreciation of our money, due to deficit spending urged by the administration and voted by Congress has been so great and the corresponding increase in the cost of living has gone so high it is already producing a near riot in every food store in the Nation. Why? Because you either spent money you ought not to have spent, or you spent it for the wrong things.

We have enjoyed the greatest revenues in the last few years this country has ever known. We have taken in vast amounts of revenue—the greatest amount of revenue that has ever flowed into the Treasury of the United States. But like the grasshopper and the butterfly, we have danced and sung through the summer of our prosperity, flinging money to the four winds, and now the grim October days of recession are upon us—at a time when our country is in the greatest danger.

I say that deliberately and consideredly. Make no mistake about it. This country today is in the greatest danger. We have spent billions of dollars and played into the enemy's hands. Russia would like nothing better than to see us spend ourselves into bankruptcy. We are bankrupting the Nation at a time when we should be saving our money, reducing our debt, and preparing ourselves to meet the enemy, both economically and militarily.

Mr. Speaker, I hope it is not too late. The damage has been done. The appropriations have been made. The money is gone. A lot of people who came in here who wanted money out of the United States Treasury got it. And we borrowed it to give it to them.

So when you go home at the close of the session and your people complain about the high cost of living, do not pass the buck. Tell them the facts. Tell them that the more money we took in, the more you spent. Tell them the national debt is higher because you voted to make it higher. Tell them the dollar has gone down and the cost of groceries has gone up because you voted to depreciate the dollar and voted to raise prices. Tell them you thought you were campaigning out of the public treasury and making votes by voting for practically everything everybody and anybody wanted. Then they ought to reflect you and send you back because you told the truth—and then come back and sin no more before it is too late, if it is not already too late.

Mr. TABER. Mr. Speaker, this bill does carry a lot of money. On the other hand, it is the usual continuing resolution which we have had to pass for a good many years now. We have got to

pass it this time so that the Government can function after next Tuesday.

I think that is all I care to say about it. Mr. HOFFMAN. Mr. Speaker, will the gentleman yield?

Mr. TABER. Yes; I yield.

Mr. HOFFMAN. The gentleman from Missouri [Mr. CANNON], is yelling around about excessive expenditures which may ruin us or bring on a depression? Who is responsible for that?

Mr. WITHROW. He is.

Mr. HOFFMAN. Why, of course. Though, of course, he may withdraw or revise his remarks.

The SPEAKER. The question is on the motion to suspend the rules and pass the resolution.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

TRANSPORTATION ACT OF 1958

Mr. O'NEILL. Mr. Speaker, I call up the resolution (H. Res. 608) and ask for its immediate consideration.

The Clerk read the resolution as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 12832) to amend the Interstate Commerce Act so as to strengthen and improve the national transportation system, and for other purposes. After general debate, which shall be confined to the bill and continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Massachusetts [Mr. O'NEILL] is recognized.

(Mr. O'NEILL asked and was given permission to revise and extend his remarks.)

Mr. O'NEILL. Mr. Speaker, House Resolution 608 makes in order consideration of the bill, H. R. 12832, the Transportation Act of 1958, which has been commonly called around here the railroad bill.

The resolution provides for an open rule with 2 hours of general debate on the bill.

The instant bill is the culmination of many months and years of consideration by active committees. A study has also been made by the President's Advisory Committee on Transportation Policy and Organization. Actually, various committees have been working constantly since 1955, realizing the financial plight of the railroads. Particularly the eastern transportation lines, as is well known to all of us, are in serious condition and have been seriously aggravated by the current recession.

Over the years the United States demand for transportation service has steadily grown, until now it is estimated that the intercity freight traffic of the United States is some 1½ trillion ton-miles. At 650 billion ton-miles annually the railroads are doing more than 1½ times what they did even in their best years of the twenties, and twice what they did in the years preceding World War II. Despite this advance in freight traffic, they are now doing in percentage of transportation 20 percent less in the industry than they were doing in 1939.

The Interstate Commerce Commission estimates that the overall passenger deficit now amounts to \$700 million annually. So, with the current decline of freight traffic, it is impossible to offset the losses of the overall passenger deficit.

It is interesting to note that the decline in traffic which started last fall has continued in substantial magnitude and has affected the current passenger position of many railroads. At the present time employment schedules show a drop of 60,000 employees working for the railroads, 60,000 fewer than were working at the first of the year.

When we compare the railroad employment figures with May of 1957 we find that in the period of about a year there are 180,000 fewer employees working for the railroads. As a matter of fact there is a lesser number of employees working for the railroads now than at any time since 1898.

The bill proposes five changes in the Interstate Commerce Act which are designed to strengthen and improve our national transportation system.

First, financial assistance to the railroads through Government guaranty, in whole or in part, of loans maturing within 15 years made to carriers by public or private financial institutions where the loans are to be used for capital expenditures.

Such loans are authorized to March 31, 1961.

With the worsening conditions some railroads, particularly in the East, are in grave economic condition; and in the committee hearings on this bill there was testimony to the effect that it is doubtful whether some of them will be able to avoid going into receivership before the end of the year. Consequently the bill is designed in part to give some financial assistance through the option of a loan. The railroads may borrow in such cases. The amount of guaranty is limited to not more than 50 percent of the amount charged by the carrier in the preceding year; and it is made unlawful for the carrier to declare any dividend while a guaranty is outstanding for a loan for this purpose, and such loans are authorized, as I said, until March 31, 1961.

The major cause of the railroad difficulty is the unsatisfactory passenger situation. Not only is the passenger end of the business not making money, but it is losing a substantial portion of that produced by the freight operations.

The true deficit of the railroad passenger service is actually in dispute. The Interstate Commerce Commission

estimates that it is in the neighborhood of \$700 million a year. In other words, the railroads of America on carrying passengers along in the course of a year suffer a net loss of about \$700 million. Whatever the deficit is, it is clear that it is large and constitutes a substantial burden on the revenues from freight.

Second, it is proposed that the railroads, at their option, may have the Interstate Commerce Commission rather than the State Commissions pass upon the discontinuance or change in the operation or service of any train or ferry on a line not located wholly within a single State.

Actually, this does not mean that the ICC is going into your local State and tell your DPU that you are going to stop a train from serving some small community, that you are going to stop part or all of the service there. Actually they have the right to appear before the ICC in the matter of determining the number of runs made on a given line.

Third, it is proposed to furnish a guide to the Commission in achieving consistency in its treatment of competitive rate cases in order to prevent unfair destructive practices on the part of any carrier or group of carriers.

Fourth, in order to arrest the diversion of traffic in agricultural commodities and seafood to nonregulated carriers, the bill freezes the so-called agricultural exemptions from motor-carrier regulation by the Commission to the present list of exemptions and would return to economic regulation the transportation of frozen fruits, berries, and vegetables and also coffee, tea, cocoa, hemp, imported wool and certain categories of domestic wool.

And last, to regulate the practice of "pseudo-private carriage," provision is made that no person shall, in connection with any other business enterprise, transport property by motor vehicle in interstate or foreign commerce unless such transportation is incidental to and in furtherance of the operator's primary business enterprise, other than transportation.

I urge the adoption of House Resolution 608 so the House may proceed to the consideration of this important legislation.

Mr. Speaker, I yield 30 minutes to the gentleman from Illinois [Mr. ALLEN].

Mr. ALLEN of Illinois. Mr. Speaker, I yield myself such time as I might require.

Mr. Speaker, first, I want to congratulate the chairman and members of the great Committee on Interstate and Foreign Commerce for favorably reporting the bill presently before us.

Particularly pleasing to me is that it was considered in a nonpartisan manner—both Democrats and Republicans realized that the railroads were in serious financial difficulties. They realized that in many instances, huge expenditures were required by the railroads which were completely out of the control of railroad management. May I refer to a few.

The railroads are in a different position than most businesses. For instance, they are compelled to continue certain services even when they are los-

ing money. Year after year they have lost as high as \$700 million or more in their passenger service. They are obliged to continue to give these services, even though they are losing money on many passenger runs.

Commuter service in most instances is run at a deficit. They must provide tens of millions of dollars worth of equipment that is used but a few hours a day—to have available sufficient equipment to provide for the maximum passenger traffic. In fair weather, most of the commuters use their cars and other means of conveyance. Still, the railroads are obliged to have available at all times men and equipment for the top load on days of bad weather.

The 3-percent freight tax and the 10-percent passenger tax—excise taxes enacted in time of war—have been an extreme and unjustifiable assessment against them in time of peace. It appears that the 3-percent freight tax will be repealed.

I am certain that most of you will agree with me that it would be extremely difficult for most local governments to operate without the enormous taxes received from the railroads. The railroads, through local taxes, have contributed liberally to schools and other local improvements.

I believe it is obvious to most of us that the railroads could not continue to operate under present conditions. Many conservative and well-informed people have advised me that without this added impetus, it would only be a question of time before our railroads would become nationalized. Of course, we do not want that.

Mr. SCOTT of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. ALLEN of Illinois. I yield to the gentleman from Pennsylvania.

Mr. SCOTT of Pennsylvania. I would just like to say to the gentleman that I am unreservedly in support of this bill. I think the gentleman is making a very important statement.

Mr. ALLEN of Illinois. I thank the gentleman.

This bill—one to strengthen and improve our national transportation system—grows out of extensive consideration of transportation problems by the Committee on Interstate and Foreign Commerce over a period of several years.

While it deals for the most part, perhaps, with railroad problems and has come to be known by some as the railroad bill, its provisions are not by any means designed for the assistance and development and welfare of the railroads alone. It is needed by, and would benefit all forms of regulated, common-carrier transport—and it is needed by and would benefit shippers and consumers and the public generally.

Interest in the bill is highlighted at the present time, it is true, by the current plight of the railroad industry—especially certain parts of that industry—but it ought to be understood that an equally serious problem is posed by the weakening of our entire regulated—or common carrier—system of transportation.

In recent years the common-carrier system has been seriously impaired. To permit that impairment to continue, would be a dangerous thing—for the common carriers are our lifeline upon which our entire economy, way of life, and national defense depend. And, of course, the railroads are the backbone of the common-carrier system—they are the key to our whole transport system.

This weakening and impairment of our railroads and other common carriers results from many factors.

The regulated carriers are overregulated, yet they must compete with carriers not subject to regulation, either because it is exempt by law from regulatory controls or because it is private carriage and for that reason not regulated.

Some types of carriers are subsidized at the expense of the taxpaying general public—while others, which try to compete with them, are not. Some must bear much heavier tax burdens than others. On top of all else, the situation has in recent months been seriously aggravated by the current general business recession.

This bill would not provide any tax relief, nor would it get into the matter of subsidized competition. But it does get into a few of the more serious regulatory problems with which the railroads and other common carriers are plagued; and it does offer a program of temporary, short-range financial relief to assist those railroads most severely affected at the present time to weather the storm until the other corrective provisions of the bill have had an opportunity to have their overall long-range effect.

COMPETITIVE RATEMAKING

One thing we have all heard a lot about in recent years is that the Interstate Commerce Commission has had too restrictive a policy with regard to the fixing of competitive rates between the different forms of transportation.

It has been argued and, I believe, demonstrated that the ICC too often refuses to approve reduced railroad rates because of the adverse effect it is feared those reduced rates would have on the trucks or barges—or that truck rates have in some cases been held up higher than they might reasonably be set just because of the adverse effect lower truck rates would have on railroad traffic.

This bill—section 5—contains a new rule of competitive ratemaking to be added to the Interstate Commerce Act. It is designed to promote healthy rate competition between the different forms of carriage. It applies with equal force and effect to railroads, trucks, and barges. It would give carriers greater free play in establishing reduced rates if those rates are compensatory and do not discriminate unjustly among shippers.

It would do this, however, without legalizing the "law of the jungle." The competition would have to be fair competition. This should benefit not only the carriers, but the shipping and consuming public as well—for it will enable the public to enjoy the obvious benefits of relatively lower rates where any mode of transportation can offer such rates and still show a profit.

No longer will railroad rates, for example, be held by the ICC at a high level just to keep traffic from being diverted from the highways and inland waterways.

AGRICULTURAL COMMODITIES EXEMPTION

The bill—section 6—contains another amendment to the Interstate Commerce Act that should help out the regulated carriers—both railroads and trucks—in the competitive field. It has to do with the so-called agricultural exemption.

The present law exempts from rate regulation altogether motortrucks engaged wholly in hauling so-called agricultural commodities. Perhaps this exemption was not a bad thing so long as it was confined to its original purpose to provide the American farmer with a flexible supply of truck transportation to carry the raw products of the farmer from the farm to the market or other concentration point.

But over the years the exemption has been greatly expanded by interpretation—not congressional action—from its original purpose so that today it covers all sorts of highly processed and manufactured products, in the ordinary channels of commerce, long after the farmer has ceased to have any interest in their transportation.

It has even been so interpreted as to include the hauling of many commodities imported from foreign countries that are not even grown or produced in this country and in which our farmers have no stake.

So the interpretation of the agricultural exemption has gone too far. It no longer reflects the original intent of Congress. To deal at least to some extent with this problem of having important volumes of traffic senselessly taken away from the regulated common carrier trucks and railroads by the untrammelled competition of exempt haulers, the bill would, in general, freeze the agricultural exemption where it is today, and roll it back, too, to a limited extent.

Frozen fruits and vegetables and certain imported products, such as coffee, tea, cocoa and hemp, in particular, would be returned to regulation.

PSEUDOPRIVATE CARRIAGE

Section 7 of the bill deals with yet another competitive problem. It is designed, by adding certain language of a prohibitory nature to the Interstate Commerce Act, to curtail certain practices that some call pseudoprivate carriage.

By that term is meant various devices or subterfuges by which for-hire transportation is performed under the guise of legitimate private carriage.

When this occurs, the operators in question unfairly and unjustly deprive the regulated for-hire carriers—both by railroad and by truck—of freight hauls to which they are entitled. These are grossly unfair and destructive competitive practices, and they should be curbed if we are to preserve our common carriers in full vigor and health.

The bill would do this without in any way affecting legitimate, bona fide, proprietary carriage of one's own goods in one's own trucks in furtherance of one's own primary business enterprise other

than the enterprise of engaging in transportation.

UNPROFITABLE RAILROAD SERVICES

Sections 3 and 4 of the bill are so drafted as to vest the Interstate Commerce Commission, in specified circumstances, with jurisdiction and authority in the matter of discontinuing or changing certain unprofitable railroad services that are a burden on interstate commerce.

Section 3 contains technical amendments only.

Section 4 would provide a procedure whereby railroads could go to the ICC for relief in cases where their rights with respect to the discontinuance or change of any train or ferry are subject to the restraints of State authority; and under the procedure set forth—including provision for investigation and hearing—they would be able to effect the proposed discontinuance or change unless the Commission finds that public convenience and necessity requires otherwise—that a net loss will not result from continuing the operation or service in question—and that continued operation or service will not otherwise unduly burden interstate commerce.

This is a most desirable change in the law to help the railroads overcome what is a very serious problem for them—and one generally without justification. That is the problem created by the enforced continued operation of losing services. All too frequently, railroads that want to discontinue or consolidate or curtail, or otherwise change operations or services—usually passenger operations or services—are prohibited from doing so—or have permission to do so, long delayed—at the hands of State commissions or agencies where the authority for such matters rests at present.

The ICC does not have authority or jurisdiction over such matters under present law.

State authorities are likely to be swayed by local pressures and local pride, and since they have no responsibility for the overall soundness of the railroads or the protection of interstate commerce as a whole, they are prone to deny or unduly delay permission to railroads to take corrective action even where the service—usually passenger service—is no longer in demand or used by the public, and is therefore losing money and thus burdening interstate commerce.

This is especially harmful when one considers the tremendous passenger train deficits piled up each year by our railroads.

Those passenger deficits have to be made up somewhere, and it has to be at the expense of the shippers of freight. This means higher rates. Higher rates mean lost traffic. It is a vicious circle.

Clearly, this is a matter that needs remedy. The bill provides a remedy. It ought to be pointed out, however, that the bill preserves State jurisdiction as to operations and services purely local in character, for it provides that the ICC procedure "shall not apply to the operations of, or services performed by, any carrier by railroad on a line of railroad located wholly within a single State."

GUARANTEED LOANS FOR RAILROADS

Section 2 of this bill makes provision for a plan of guaranteed loans for railroads, under the administration of the Interstate Commerce Commission.

The ICC, the Committee on Interstate and Foreign Commerce believes, is in a better position under the circumstances than any other agency of Government to administer a plan of this kind.

A number of railroads are in need of financial aid. Some are in extremely bad shape. A few, perhaps, especially hard-hit in the east, are in almost desperate plight. Declining traffic and revenues have so affected the current cash position of the railroad industry that funds needed for additions and betterments and other capital expenditures, including the purchase of freight cars, locomotives, and other equipment, are simply not available in many cases. In some instances, maintenance has been deferred, as has the repair and renewal of equipment and other property, because of depleted operating funds.

This is a serious situation that calls for relief. The program of relief should be short-term, of course, and under the proposal in this bill it will be.

The authority to guarantee loans will terminate on March 31, 1961.

Also, the conditions of the guaranty should, of course, be fairly strict, and under this bill that, too, would be the case. The term of the loan guaranteed could not exceed 15 years; the money would have to be shown to be unavailable, on reasonable terms, without the guaranty; and the interest rate would have to be reasonable.

Loans could cover either capital expenditures or expenditures for maintenance of property—but in the case of loans to cover expenditures for maintenance of property, the amount of the guaranty would be limited by law to not exceeding 50 percent of the amount charged to maintenance in the accounts of the borrowing railroad during the preceding year, and it would be unlawful for the carrier to declare any dividends while a guaranteed loan for this latter purpose is still outstanding.

H. R. 12832 is badly needed and would measurably benefit our railroads and other common carriers—yet it is a moderate bill.

It would not only help the carriers, but would also be to the advantage of shippers and consumers and the public generally.

It would be good for the national economy and a boost to national defense.

It is in the public interest, and ought to be enacted.

It is my understanding that certain amendments are going to be offered. As far as I have been able to learn, they are crippling amendments, designed to weaken and to make ineffective the true purposes of the bill.

They should be voted down; that is, with the exception of any perfecting amendments offered by the Committee on Interstate and Foreign Commerce.

I cannot urge too strongly the adoption of this rule and the passage of the bill.

LEGISLATIVE PROGRAM

Mr. O'NEILL of Massachusetts. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana [Mr. MADDEN].

Mr. MARTIN. Mr. Speaker, will the gentleman yield?

Mr. MADDEN. I yield.

Mr. MARTIN. Mr. Speaker, I have asked the gentleman to yield to find out, if I can, from the majority leader what the legislative program is for tomorrow and next week.

Mr. McCORMACK. If the bill now pending is finished today, we will not meet tomorrow and we will go over until Monday, as I stated yesterday.

Mr. MARTIN. Then this is the last measure on the program for the week?

Mr. McCORMACK. That is correct. The joint resolution, House Joint Resolution 221, having to do with traffic safety compacts was on the program, if it could be reached, but that will be put over until Monday under the suspensions.

The program for next week is as follows:

On Monday, under suspensions there will be:

House Joint Resolution 221, traffic-safety compact measure.

Senate Joint Resolution 181 to extend the agricultural milk program.

H. R. 11801, to increase the burial allowance for deceased veterans from \$150 to \$250.

Under a rule, H. R. 11102, having to do with the courts, diversity of citizenship.

Also, H. R. 11477, having to do with the courts, admission of evidence. That is a bill which has come up as a result of the Mallory case.

H. R. 11630, the unemployment insurance bill for ex-servicemen.

On Tuesday, Wednesday, and Thursday the mutual security appropriation bill will be scheduled. I would think the mutual security appropriation bill should be completed by Wednesday at the latest. If so, there will be no further legislative business thereafter for next week. The Fourth of July weekend follows that.

There is an understanding on the part of the leadership that if on Monday any rollcalls are required, a rollcall vote will only be had on legislation which it is imperative to pass such as where a law is expiring or if one is ordered, on a rule. The only one that I can see that fits into that category is the resolution extending the agricultural milk program. But, that should go through very quickly, I imagine. Other rollcalls will go over until Wednesday.

Mr. MARTIN. Have any other arrangements been made for calling up the so-called Public Law 480 bill?

Mr. McCORMACK. No, not now.

Mr. MARTIN. Is it not true that that law will soon expire?

Mr. McCORMACK. I think that is so but the gentleman asked me a question and, as I said, there is no arrangement now made to bring it up. I am not expressing my own state of mind in reference to this matter when I answer the gentleman that way except I am trying as always to give the gentleman a frank answer.

Mr. MARTIN. I thank the gentleman.

Mr. McCORMACK. However, that situation is such that it is not similar to the milk program where we want a continuity of the program.

Mr. MARTIN. If by any chance it was called up on Monday, that would be one of those bills on which we would have a rollcall.

Mr. McCORMACK. The best information I have now compels me to say that I cannot see that that might take place. Of course, almost anything can happen.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. MADDEN. I yield.

Mr. GROSS. I thank the gentleman for yielding. Do I understand now that the foreign aid bill will be taken up Wednesday?

Mr. McCORMACK. It will be taken up on Tuesday.

Mr. GROSS. It will be taken up on Tuesday and you hope to dispose of it by Wednesday night?

Mr. McCORMACK. If it is disposed of by Wednesday, then there is no further legislative business. There will be nothing on Thursday and the Members can govern themselves accordingly in connection with the July 4 weekend. Then next week I will announce the program for the following week and advise the membership as to any agreements made by the leadership in relation to the following week. I think Members can plan to remain home a little longer than just until Monday of the following week, but I would rather wait until next week when an official announcement of the legislative program will be made.

Mrs. ROGERS of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. MADDEN. I yield.

Mrs. ROGERS of Massachusetts. Did I understand the gentleman to say that there would be scheduled the veterans' burial allowance bill?

Mr. McCORMACK. That will come up on Monday.

Mrs. ROGERS of Massachusetts. Is that the only veterans' bill? There were several bills reported out of the Veterans' Affairs Committee yesterday.

Mr. McCORMACK. I understand the others are on the Consent Calendar. The next Consent Calendar call will be July 7.

Mrs. ROGERS of Massachusetts. I see the chairman of the Veterans' Affairs Committee is present.

Mr. O'NEILL. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. TEAGUE].

Mr. TEAGUE of Texas. Mr. Speaker, there were 11 bills reported out of the Veterans' Affairs Committee on yesterday. All except this one will be on the Consent Calendar. This could not go on the Consent Calendar because of the cost. I am sure the House will vote for it on Monday.

Mrs. ROGERS of Massachusetts. I do not believe there will be any objection to any one of them.

Mr. O'NEILL. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana [Mr. MADDEN].

Mr. MADDEN. Mr. Speaker, the gentleman from Illinois [Mr. ALLEN] and from Massachusetts [Mr. O'NEILL] have fully explained the contents of H. R. 12832, known as the Railroad Bill.

I have received hundreds of letters from railroad employees in my congressional district asking that this legislation be enacted. During debate and consideration of this bill in Committee of the Whole some amendments may be adopted which I hope will be constructive.

Thousands of railroad employees are now unemployed over the country. This week representatives from the E. J. & E. Railroad which transports all railroad switching in and around the Chicago area called at my office. They informed me that almost one-third of their employees have been laid off during the last few months.

This bill will enable railroad companies to get temporary financial assistance to aid their maintenance programs and thus stimulate reemployment of labor, purchase of materials, equipment and supplies.

This operation will also encourage reemployment in the steel mills and other factories in the country which are now far below normal in production.

This legislation will also release the railroads from some of the regulatory laws which seem to be a handicap for railroad management to make changes that will improve their economy and progress.

Two weeks ago I spoke on the floor of this Chamber, when the tax bill was being debated, in favor of repeal of the war-time transportation tax. I am glad to find that the other body amended the tax bill so as to relieve the railroads from some of this transportation tax.

I do not know that this bill will solve all the problems confronting the railroads but it will be a great help at this time and I hope this bill is enacted into law with 1 or 2 minor changes in the original bill.

I congratulate the Interstate and Foreign Commerce Committee for holding long hearings and reporting this bill for the consideration of the Members of Congress.

(Mr. MADDEN asked and was given permission to revise and extend his remarks.)

Mr. ALLEN of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. BROWN].

Mr. BROWN of Ohio. Mr. Speaker, I wish to commend the gentleman from Illinois [Mr. ALLEN] for the very able remarks he has just made, in which he not only outlined the problems which confront American railways, but also gave us a very studious analysis of the contents of the bill H. R. 12832, which will be made in order by the adoption of this rule.

Mr. Speaker, the railroads of our country are in a very bad financial condition. The problems which confront them are such that the Congress of the United States and the Federal Government should do everything proper and possible to help relieve the present sit-

uation. Our country's railroad system is not only of the utmost importance to a sound national economy, but to a sound national defense as well.

I hope this legislation will be overwhelmingly approved today.

Mr. ALLEN of Illinois. Mr. Speaker, I yield to the gentleman from Illinois [Mr. BYRNE].

Mr. BYRNE of Illinois. Mr. Speaker, I believe this is excellent legislation. Coming from the Third District of Illinois, a railroad center and a district through which a great many railroads pass, I believe that the United States will profit by this legislation.

Mr. Speaker, this can be, and must be a memorable day in this great body. We must pass the legislation which will improve the health of our railroads. Many of the I. C. C. regulations under which our railroads have been operating have been in the books since 1890. Times change and there is an omnipresent duty for us to keep pace in enacting necessary measures to keep all of our transportation systems operating successfully.

Coming from the heart of the railroad center, Chicago, Illinois, and representing a fine district, Illinois' third, I have a great interest in seeing that the people of Chicago continue to get the best type of service from the railroads. My district is served by 11 railroads. The taxpayers, whether in business or labor, or employer or employee, benefit from a healthy railroad condition. Railroads create jobs. The industry is the second largest in the United States, the fourth largest employer and one of the largest purchasers of our basic commodities: steel, oil, lumber, et al.

Another interesting thing to recall is the story of the land grants, given to some railroads who were pioneering in the building of some 18,000 miles of lines. This is equal to about 8 percent of the total railroad mileage in the country today. As a reciprocity gesture, the railroads agreed to haul Government freight and passengers free or in some instances at reduced rates. This obligation was carried out until relief was given the railroads in 1946. However by that date, the railroads had repaid the Government roughly 10 times the value of the land grants, or a billion and a quarter dollars worth of free transportation.

I have some figures prepared by the Illinois State Chamber of Commerce on what railroads mean to the taxpayer in Illinois.

First. They employed last year 110,000 workers, more than any other State in the Union. The employees received paychecks totaling \$575 million. According to Railroad Progress Institute, employees of Illinois firms producing items exclusively for railroad use are normally 324,000. But there are another 125,000 workers employed by companies whose production for railroads is less than half their total volume.

Second. Railroads are big customers of products made in Illinois. The sales of railway supply and equipment companies headquarters in Illinois were \$920 million in 1957. This does not include thousands

of miscellaneous items bought and stocked. It is estimated by our State chamber of commerce that railroads must carry 100,000 items in stock for use in daily operations. This figure is more impressive than the inventory of a mail order house.

Third. Illinois taxpayers should bear this in mind in connection with railroads. In 1955 the railroads paid staggering taxes in Illinois:

School taxes	\$18,222,679
County taxes, including county, township, city and village	8,014,436
Road and bridge taxes, including county, township, city, and village	2,875,651
Other ad valorem taxes	2,869,128
Special taxes	4,940,036
Rail owned car line taxes	909,739

Total..... 37,831,669

If sound transportation legislation is passed, all common carriers are going to benefit and in turn the people will benefit from the new incentive to construct and expand facilities which will create more jobs for more people. Included in any action we take should be a provision to repeal preferably, but at least reduce, the passenger excise tax on transportation on any mode of transportation. I introduced legislation providing the repeal of these outmoded taxes. To refrain from being repetitious on this question I will say nothing more at this time, except to emphasize that facts and figures do not lie. Our common carriers contribute immeasurably to the economy of our country. Chicago, Ill., has a great deal at stake in this legislation. Railroads have been the largest single factor in Chicago's spectacular growth as No. 2 city by 1890. We have sustained this position as the fastest growing city in the history of the world.

(Mr. BYRNE of Illinois asked and was given permission to revise and extend his remarks.)

Mr. ALLEN of Illinois. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. SPRINGER].

Mr. SPRINGER. Mr. Speaker, the bill, H. R. 12832, to strengthen and improve the national transportation system, is one of the most important pieces of legislation that will come before the Congress this year. I am sure it will be the most valued piece of legislation to come from the House Committee on Interstate and Foreign Commerce during this session.

This committee, of which I am a member, held hearings extending over a number of weeks on all phases of railroad problems and policy. This is not the first knowledge we have had in this field. The Subcommittee on Transportation and Communications of the full Committee on Interstate and Foreign Commerce has continually conducted hearings on the railroad situation. The instant bill is the culmination of some years' consideration by the committee of various legislative proposals advanced for meeting the problems in surface transportation, especially railroads. The purpose of this bill is to amend the Interstate Commerce Act in order to strengthen and improve our Nation's railroad transportation system so that it

may better fulfill its complete role in meeting the transportation needs of the Nation's expanding economy and the requirements of national defense.

I know many of my colleagues will ask "Why at this time are we faced with the critical situation in the railroad fields?" I think this is a good question to be answered at this point.

Although it is evident that all forms of transportation have shared in the greater demands for transportation, railroads have not shared equally in relative terms in competition for the increased total volume. The figures which came before our committee indicate that the portion of such traffic carried by railroads has steadily decreased in the past 20 years.

A second reason for the financial condition of the railroads has been the rapid fall-off in passenger service. The overall passenger deficit is estimated by the Interstate Commerce Commission as now amounting to \$700 million annually. For the railroads to show any net income at all, revenues from freight must be sufficient to offset passenger losses.

With the decline in freight traffic, the difficulty of making such offsets is accentuated, and the result is graphically shown in the drain made upon the railroads' working capital as shown in the following statement of their positions nationwide, and in the East, at the end of the first quarter, 1958:

Net working capital, class I railways

	United States	Eastern district (excluding Pocomantas region)
Dec. 31, 1955.....	\$933,751,344	\$185,743,542
Dec. 31, 1956.....	683,628,933	139,120,474
Dec. 31, 1957.....	555,275,129	93,172,549
Mar. 31, 1958.....	326,432,029	22,637,045

As a result of this drain on net working capital, what has happened in the field of maintenance and expansion? Also, what has happened to railroad employment?

The decline in traffic has appreciably affected the current cash position of many railroad carriers. As a result, they have had to suspend their authorized programs for additions and betterments to, or expansion of, their carrier properties and to defer purchase of equipment. This naturally has had a profound effect not only upon the railroads' direct employment, but also upon the industries supplying the railroads.

The following figures for railroad employment show a drop of 60,000 since the first of the year, to a level at mid-May of 180,000 less than a year ago:

Average number of employees, class I line-haul railroads

	1957	1958
Midmonth:		
January.....	995,270	884,114
February.....	987,125	860,110
March.....	987,800	840,321
April.....	991,389	828,819
May.....	1,003,429	824,813
Average for year:		
1955.....	1,058,216	
1956.....	1,042,664	
1957.....	986,001	

With all of this in mind, what can this Congress do to assist the railroads in getting back on their feet and pushing ahead with plans for maintenance and public service? With the assistance provided by this bill, many carriers would immediately reinstitute already authorized capital-expenditure programs, amounting to millions of dollars. Such action, without further delay would provide substantial reemployment by the railroad industry, and through the purchase of materials, equipment and supplies, would afford a great stimulus to the industry's supply-men. This stimulus is extremely important and timely at this moment.

The Interstate Commerce Commission must approve the underlying securities, here subject to being guaranteed by the Federal Government. The Interstate Commerce Commission has assured this committee that it will act with promptness consistent with the situation. This will make possible the reinstitution of these capital programs, the reemployment of labor, and the purchase of materials.

It is my belief that this bill, if enacted, will be of substantial assistance to the railroads in getting back on their feet and doing the job that has been assigned them in the over-all transportation picture. This legislation is partly permanent and partly emergency. It is needed very badly by some roads. It is possible that others will not use some of the loan provisions of the bill because they are not needed.

Your committee has tried to come up with a balanced program that is in the public interest and is of such manageable proportions that it can be administered by the Interstate Commerce Commission.

For all of these reasons, I urge my colleagues in the House to support this bill and to vote for it on final passage.

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent that all Members may have the privilege of extending their remarks at this point in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. ALLEN of Illinois. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. MILLER].

Mr. MILLER of Nebraska. Mr. Speaker, I want to be recorded as being in favor of the principles of the Harris-Smathers bills. I am sure the differences between the House and Senate can be ironed out in conference with the final result being good for the economy of this country. The bill adds strength to our transportation system. It will insure jobs for labor. I believe the House should pass the bill today.

(Mr. MILLER of Nebraska asked and was given permission to revise and extend his remarks.)

Mr. ALLEN of Illinois. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. FULTON].

Mr. FULTON. Mr. Speaker, I want to go on record as strongly in favor of this legislation. This is a kind of reaffirma-

tion of the National Transportation Act which has been in effect since 1940. I would like this to be on the record. Section 5, the ratemaking section, reaffirms the national transportation policy that has been in effect since 1940.

Mr. HARRIS. If the gentleman will permit, I will explain this I am sure to his entire satisfaction during general debate on the bill. I think I will then adequately answer the gentleman's question.

Mr. FULTON. I believe it does reaffirm the transportation policy.

(Mr. FULTON asked and was given permission to revise and extend his remarks.)

Mr. ALLEN of Illinois. Mr. Speaker, I yield 1 minute to the gentleman from Utah [Mr. DIXON].

Mr. DIXON. Mr. Speaker, I commend the committee on this fine legislation. I seek its passage.

Mr. Speaker, in defeating the rule on the omnibus farm bill yesterday, the House revealed a refreshing determination to legislate in the interest of the consuming public who, in my opinion, represents the forgotten man. Passage of the bill before us would be another great step in the interest of the forgotten man.

During the last 2 years while serving as a member of the House Agriculture Committee, Subcommittee on Food Costs, I have come to realize the importance of rising transportation rates and their relation to the increased cost of living. This factor is far more important than most consumers realize.

H. R. 12832 and the Senate amendments to H. R. 12695, eliminating excise taxes on freight as approved by the House, should be a tremendous step toward reducing the cost of living and at the same time materially benefiting the farmer and business.

H. R. 12832 would, first, authorize the guaranteeing of railroad loans made by private institutions—seven railroads testified they are going to certain bankruptcy unless loans are provided this year. We certainly cannot afford to have this happen; second, the bill makes it easier for railroads to discontinue unprofitable passenger and commuter service in interstate and intrastate traffic; third, the bill defines more sharply common and private carriers. Regular common carriers have been losing traffic through lack of distinct definition; fourth, the bill will prevent the abuse of agricultural exemption provision of the I. C. C. Act designed to permit farmers to transport their own products. This has been enlarged subsequently to include other people who now ship agricultural commodities not in the raw stage, and this bill will stop further expansion and abuses; fifth, it would make the railroads more competitive in rates with other carriers.

Mr. Speaker, I support H. R. 12832 and ask its passage because; first, it is vital to national safety through the preservation of our railroads; second, it would make the railroads competitive with other carriers; third, it would reduce transportation costs; fourth, by reducing transportation costs it should reduce

the cost of living and help to break the present rigidity of prices which represents such an anomaly in the present recession.

(Mr. DIXON asked and was given permission to revise and extend his remarks.)

Mr. ALLEN of Illinois. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. OSMERS].

Mr. OSMERS. Mr. Speaker, doubtless, our railroads need help. Their problems, however, do not exist entirely at the Federal level. Much must and should be done at the State, county, and local levels of government. In New Jersey, railroad taxes in many places are unconscionable. In the middle thirties, as a member of the New Jersey State Legislature, I pressed for legislation to help railroads because even then, Mr. Speaker, it was evident that sooner or later a day of reckoning would come. That day is here and many eastern railroads will founder if not helped. The Committee on Interstate and Foreign Commerce has attempted in this bill, H. R. 12832, to give assistance. For the most part, I support the provisions which give financial assistance, change the rules of ratemaking, and clarify agricultural-commodity exemptions. The provisions to eliminate pseudoprivate carriage are very necessary to protect common carriers. However, Mr. Speaker, section 4, which adds a new section 13a, has grave implications for railroad commuters in the New York-New Jersey area. Unless this section is radically changed by the House, along the lines suggested in committee by the gentleman from Georgia [Mr. FLYNT], it will be impossible for me to give the bill my support. Without question, section 3, as is, will enable the Interstate Commerce Commission to summarily terminate extensive commuting facilities between the New Jersey suburbs and New York City. The economic consequences of this will be staggering and I will not attempt to detail them here. Hundreds of railroad employees and stockholders have written to me urging my support for this bill, but unless protection is given to the legitimate needs of the commuting public, while plans for new transit arrangements are being made, the bill should not be adopted. Passage of the bill without amendment will be most unwise.

(Mr. OSMERS asked and was given permission to revise and extend his remarks.)

Mr. ALLEN of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. HOFFMAN].

(Mr. HOFFMAN asked and was given permission to revise and extend his remarks.)

Mr. HOFFMAN. Mr. Speaker, it is my understanding that under the rules of the House it is highly improper for a Member from the floor to criticize any action taken by any congressional committee. That seemed to be reaffirmed last Tuesday when the gentleman from Missouri [Mr. CURTIS] had the floor.

It is also my understanding that it is not in violation of the rules to call attention to what happened in public

committee hearings as published in the press. I notice the chairman of the committee which has charge of the bill we are about to consider is also chairman of another committee, the House Committee on Legislative Oversight, which held a hearing yesterday. During those hearings yesterday a witness—I think the name was Fox—was permitted to testify at length as to what another man, Mr. Goldfine, told him as to certain things Mr. Adams did or did not do, all without a word of direct testimony.

My only purpose is to call the attention of the Members of the House to a situation which has happened all too often, a situation where, if I can get before a committee of this House, I can tell that committee and the public what the taxi driver told me that the milkman said about a member of the administration or of the Congress. I can lie. I can defame the character of anyone. I can use the House committee to maliciously slander anyone—and all without adequate remedy.

I am not passing any judgment. But, if that is what the House wants to sanction, that kind of a hearing, I may some day ask permission to go before one of the House committees and tell what somebody reportedly told me the Speaker said about somebody else when neither ever said a thing to me on the subject. But that is one way to get publicity, spread lying vicious slander all over the front pages of the press. I cannot tell you, under the rules of the House, what I think about it, but you can guess.

Whether what Mr. Adams did or did not do or say was proper or improper depends entirely upon the surrounding circumstances and conditions. He is the President's man. The President says he knows the facts and that he, the President, needs Adams and intends to retain his services. It is the President's job and it would be highly improper for me to criticize.

If the House wishes to permit its committee to give individuals appearing before it opportunity to, by hearsay twice removed, to charge citizens with wrongful conduct, I may not under the rules criticize but it is my privilege to put the facts on the record.

To that end I read Mr. Adams' statement as printed in the morning paper:

ADAMS' STATEMENT

The following is a text of a statement by Presidential Assistant Sherman Adams in response to testimony by John Fox, Boston business promoter:

"Mr. Fox's malicious accusations are made largely in terms of what he alleges someone else told him.

"While I have no way of knowing what someone else is supposed to have said to Mr. Fox, I do know what I myself have said, heard, and done.

"It is difficult to separate the many falsehoods in Mr. Fox's incredible testimony. Virtually everything he said about me, in one way or the other, is false.

"1. I categorically deny that I have ever said to Mr. Goldfine or to anyone else that I would take care, or had taken care, of his affairs with any Federal agency. I have never said that. I have never done that or attempted to do that.

"2. I categorically deny that Mr. Goldfine has ever helped me or any member of my family financially while my children were in

school. I, and I alone, footed my children's bills.

"3. I categorically deny that Mr. Goldfine has ever bought into any ventures for me: Mr. Goldfine has never purchased for me, or participated with me in the purchase of any security or other property. I do not now have nor have I ever had any financial interest in any property or investment, business, or undertaking in which he has any interest.

"It is incredible to me that any committee of the Congress would permit a completely irresponsible witness to use the committee as a forum for making such vicious accusations."

Mr. O'NEILL. Mr. Speaker, I move the previous question on the resolution. The previous question was ordered. The resolution was agreed to.

Mr. HARRIS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 12832) to amend the Interstate Commerce Act so as to strengthen and improve the national transportation system, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H. R. 12832, with Mr. DAVIS of Tennessee in the chair.

The Clerk read the title of the bill.

By unanimous consent the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Arkansas [Mr. HARRIS] will be recognized for 1 hour and the gentleman from New Jersey [Mr. WOLVERTON] for 1 hour.

The Chair recognizes the gentleman from Arkansas.

Mr. HARRIS. Mr. Chairman, I yield myself 15 minutes.

Mr. Chairman, this is one of the most important bills that will come before this Congress during the present session. Furthermore, it is one of the most difficult bills to understand because of the technical phases of the legislation. If I may have the attention of the members of the Committee for just a few minutes I believe I can expedite the debate, and, certainly, will endeavor to clearly and fully explain to you just what this legislation proposes to do.

In the first place, I would refer you to page 2 of the report. In a very short statement there you will find a brief explanation by paragraphs as to what the legislation seeks to do. As has already been said, our committee has considered transportation problems over a period of several years. As a matter of fact, the Committee on Interstate and Foreign Commerce has given continuous consideration to the problems of transportation for many years and with particular emphasis on the Transportation Act of 1940.

In recent years, however, there have been some conditions that have occurred which makes it necessary for consideration to be given to some very technical and knotty problems.

In 1954 the President appointed what he referred to as a Cabinet Committee on Transportation. That Committee had a task force and did give thorough study to the problems of transportation in this country. A Committee report was issued

in 1955, on which the Committee on Interstate and Foreign Commerce met in August of that year. There the whole matter was laid out on the table and they described to us what they proposed to do. That report submitted not only to the Congress their recommendations but a bill with it to carry out those recommendations.

There were many far-reaching proposals in the Cabinet Committee report. The Committee on Interstate and Foreign Commerce did not see how it could go along with many of those recommendations. In 1956 hearings were held on an omnibus bill. These were quite extensive and complete hearings. Because of the far-reaching impact and the many technical provisions of the bill at that time the committee did not report it.

In 1957 the Secretary of Commerce again submitted the recommendation of the administration on the basis of the Cabinet Committee report. At the same time the Interstate Commerce Commission made 26 recommendations for amendments to the Interstate Commerce Act. In the last session some 15 or 16 of those recommendations were considered by our committee. There were, I think, 9 or 11 reported by our committee in House bills and in several Senate bills. They are law today.

But as we came into the more controversial features that the committee considered during this time, it was necessary to have tedious and serious consideration. There is no more controversial problem in this country than the transportation problem itself. There is no more highly competitive business in this country than competition between the carriers themselves. So we have had, therefore, the differences between the carriers themselves, the common carriers, the problems of the contract carriers, the problems of the private carriers, the problems of all of those interested in transportation, including shippers and shippers' organizations. We have been trying to resolve these differences to the best of our ability in a way that would add strength to the transportation system of this country. And, that is precisely what we bring here to you today in a transportation bill, amendments to the present law, to add strength to the present transportation system and to make it sound. I am sure that every Member of this House, if asked about the transportation system of America, would say that we have, in fact, the finest system in the world and that we must maintain a sound transportation system. And, that means that we must maintain all modes of transportation: the trucks, the buses, the railroads, the water carriers, the barges, the airlines, private carriers, contract carriers, and all. It is a part of this great system that we have built in the years and more specifically in the last 15 to 20 years.

Today, because of conditions that have existed, we are having whittled away from the transportation system day by day its very heart—the common carriers, which have been the basic system over these many years. As a result we find

one carrier, the railroad industry, in a desperate condition.

We have been observing now for some time what is happening to the railroad industry, and it has now come to the point that we are told by a number of the eastern railroads if something is not done on behalf of those railroads in a financial way, they are not going to be able to perform the service. There is not a person in this Chamber who does not know and recognize that we must have railroads in this country. They are our basic mode of transportation, and we must keep them.

There are several eastern railroads that are in difficulty. To be sure, they have been suffering some loss of business, as has industry generally, but during the war they were built up to provide, and necessarily so, means of transportation for our troops and materials and had to provide the facilities and had to maintain the rolling stock and other equipment up to a very high level. They now find themselves back on a more normal level from this tremendous buildup with the further reduction and letdown from the recession so that some of them find they cannot keep going and they are in a desperate condition. So, the presidents and those interested in running and managing those railroads came to the committee and explained the difficulty they were having.

Here is what we are trying to do to improve the present system. And, may I say further at this time that we have not resolved all of the differences of any one of these highly controversial issues. It is an utter impossibility to resolve them. We have not satisfied everyone completely, but I am of the opinion that the committee has reached as near the goal or the objective of meeting the requirements of all of these different interested parties as is possible.

In the first place, we provide in section 2 of this bill a provision for guaranteed loans. We provide a method whereby those roads that are about to go into bankruptcy can strengthen themselves through a Government loan—5 of them in New England; most of them in the eastern part of this country.

Now, there are those who do not like this kind of financing. I am not too happy with it myself. But, we have got to do one of two things.

We have got to do something to strengthen them in the financial part of their operation or see a major industry of this Nation, that is so vital to the service of the public, go down. So we take this method of trying to do something about it.

There are those who say, Are you entering into a great Government program of financing here? That is not the case at all. The Southern railroads and the Western railroads have less need for this kind of program, but there is no way for us to separate them. They are willing to go along in this position because they see what is happening to some of the Eastern railroads. And let one of the great major railroads of this country go down and it will have a terrific impact on the entire railroad industry. We cannot get around that.

So we provide that the Interstate Commerce Commission be given authority under the provisions of this act in Section 2 on an application filed by the carrier, showing the need, the requirement and the justification for it, to approve such application permitting them to go into the money market, and make arrangements for obtaining a loan; then come back to the Interstate Commerce Commission and with a proper showing before the Commission, at which all parties who have an interest are protected, obtain a guaranty of the loan by the Government, under those circumstances.

Mr. MORANO. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield, for a question.

Mr. MORANO. As I understand, the Interstate Commerce Commission will be the agency that guarantees this loan; is that correct?

Mr. HARRIS. The Interstate Commerce Commission will consider, process, and approve the loan.

Mr. MORANO. Is this the first time this agency or any other agency like it will have been given that much authority to guarantee a loan?

Mr. HARRIS. No, not at all. This bill is patterned after a bill which this committee reported, the last Congress approved, and which is now the law, affecting the airlines.

Mr. MORANO. One other question, if the gentleman will yield further. I understand there is authority in this bill to permit an interstate carrier, specifically one operating a train from Connecticut into New York, to discontinue service. In other words, if a carrier is going from the State of Connecticut, carrying passengers into New York, and it is found that carrier is losing money in that operation, may the carrier with the approval of the Interstate Commerce Commission, but without obtaining the approval of some state agency, discontinue that service? May I say to the gentleman that I favor most provisions in the bill and expect to support it.

Mr. HARRIS. On a purely interstate operation, the operation of a passenger train, this would give the carrier the privilege of going to the Interstate Commerce Commission to determine whether or not that particular service shall be continued. But that is not the full answer to the problem. And I wish the gentleman would permit me to continue so that I can explain it. This is a very important point and most important to this bill. I should like the opportunity to explain it because there are some erroneous impressions about that provision.

We provide a 100 percent guaranteed loan. That does not mean necessarily that it will be a 100 percent guaranteed loan. It may be 60 percent or 70 percent, depending upon what the carrier is able to justify. Then we provide that that money shall not be for all operating expenses. We limit that loan to capital improvements and maintenance, with a limit for maintenance to 50 percent of the charge for maintenance in the prior year.

It is estimated that some 30 percent of the total operating cost of a railroad is for maintenance purposes. Therefore, only 50 percent of the maintenance charges for the prior year would be eligible for approval under this bill. The Senate bill has a 100-percent provision in regard to all operating expenses, as well as meeting interest and maturities. We feel that is going too far. We do not feel that the Government should guarantee loans for total operating costs. Therefore, we put a restriction on that provision.

Section 3 of this bill is purely technical.

Section 4 has to do with the matter the gentleman from Connecticut just mentioned, that is, amendments to add section 13a regarding the discontinuance or change in certain operations or services. In the first place, you have heard from your State commissions and a lot of other people and they say, "We object to your taking away from us the right to determine intrastate rates." This bill does not disturb that situation at all. We do not touch the intrastate rate problem. We leave to the State commissions that responsibility.

Further, we leave to the State commissions complete authority over intrastate operations. A train operating over a line of railroad located wholly within a State is within the jurisdiction of the State commission. The abandonment of stations or depots is left with State commissions. So you can see that practically all of this problem of abandonment is continued with the State commissions, as it has been in the past. The Congress has never preempted that authority.

Here is the one thing that we do touch. In certain areas, principally in the New York-New Jersey area, in which the gentleman is interested, there is a terrific problem with reference to commuter service. Interstate lines are all involved. As such, there is a terrific loss. Because of local conditions and circumstances, taxes and otherwise, rates and all, some trains are required to continue operating at a terrific loss. We do provide that in interstate, purely interstate passenger operations as such, the carrier can make an application to the Interstate Commerce Commission to determine whether or not that interstate operation shall continue. That is precisely what the problem is.

Mr. MORANO. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Connecticut.

Mr. MORANO. When the carriers do apply, are there any criteria on which the Interstate Commerce Commission must base its decision?

Mr. HARRIS. Yes; there are criteria. You will find that three requirements must be met under this bill. In other words, the Commission find that the operation is required by public convenience and necessity. That is No. 1. Then, that such operation or service will not result in net loss therefrom to the carrier or carriers. That is No. 2, No. 3, is that it will not otherwise unduly burden interstate commerce.

I have a committee amendment which I will offer that will strike out the words

with reference to the net loss resulting therefrom, because we feel that the other two requirements, as to public convenience and necessity, and that it will not otherwise unduly burden interstate commerce, would be sufficient to give the Interstate Commerce Commission authority to act on any case before it.

Mr. MORANO. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield.

Mr. MORANO. I am glad to hear the gentleman assure me, and I wish he would assure me in more forceful terms, that the problem of necessity and the criteria of necessity is emphasized because there is certainly no question of the necessity for a commuter train running from Connecticut to New York.

Mr. HARRIS. I do not know how I can assure the gentleman any more forcefully than I have. I have read it positively and that is what it is.

Mr. HARRISON of Virginia. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield.

Mr. HARRISON of Virginia. Will the gentleman differentiate between his bill and existing law in this regard?

Mr. HARRIS. As I just stated, under the present law Congress never preempted the State's authority with reference to these matters. The only things we preempt them here or interfere whatsoever is in those extreme cases where it is purely an interstate operation or services that are required. Where we have that kind of situation and the carrier can show that the public convenience and necessity requires it and there is a question of a burden on interstate commerce, then they can go to the Interstate Commerce Commission.

Mr. HARRISON of Virginia. Do I understand that under existing law in such a situation a carrier has to get permission from both States?

Mr. HARRIS. Yes; let me give you this case as an example.

There was a particular railroad in my own State running from Little Rock, Ark., to Alexandria, La. Let us just take that as an example. As it is now to abandon any service or operation, you have to go to the Arkansas Commission and then go to the Louisiana Commission. There is a case law in this particular instance, and the Arkansas Commission, I believe it was, approved the application, and that service was stopped to the Louisiana line. The Louisiana commission, as an example, failed to approve it, and, therefore, they ran a little engine and crew up there every day to the line and turned around and went back. That situation continued for a period of time before they could ever get it straightened out. That is the type of situation we are trying to correct here.

Mr. HEMPHILL. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield.

Mr. HEMPHILL. I want to thank the distinguished chairman for the time he gave me yesterday. In the event the interstate line had a train which was wholly operated within the State itself, who would have authority to discontinue that train under this bill?

Mr. HARRIS. The State commission would, where the train was being operated over a line of railroad located solely within that State.

Mr. HEMPHILL. The State commission would retain that authority under the House bill?

Mr. HARRIS. I made that very clear and very plain that under the language of this bill, the State commission would have that authority in the instance cited.

Mr. HEMPHILL. Even though the train was on an interstate line?

Mr. HARRIS. If it was a line operation off the interstate line, wholly within the State, then the intention of this language is that the authority there would be with the local commission. If the trains were on a line of railroad not located solely within the one State, then the railroad has the option of coming to the Interstate Commerce Commission.

Mr. HEMPHILL. I thank the gentleman.

Mr. OSMERS. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield.

Mr. OSMERS. I would like to point out to the gentleman that I represent an area in the State of New Jersey where many thousands of people commute by rail to New York City, generally on a combination of rail and ferry, for which a single ticket is sold. Under the committee amendment which the gentleman proposes to offer, and which I assume will be added to the bill, the language concerning services that will not result in a net loss therefrom will be stricken from the bill. I further note in the same section, Mr. Chairman, regardless of what is done, the service ordered continue would only continue for 1 year. Have I correctly interpreted that?

Mr. HARRIS. No; the gentleman has not at all. What this does is to give the Interstate Commerce Commission authority in a case of this kind to make a decision as to whether or not that particular service shall be abandoned. If they, after hearing and consideration, decide that it should be not abandoned, then that order shall last for only 1 year and after the 1 year the commission order is no longer in effect and they will have to start all over again by going back to the State commissions or else renew their applications.

Mr. OSMERS. If the gentleman will yield further for just one more question. Paragraph 3 of section 13 (a) calls for the Interstate Commerce Commission to make a study of the passenger train deficit problem and make a report. Would the gentleman explain that section?

Mr. HARRIS. Let me answer that. Here is the reason for that. We had the chairman of the National Association of Railroad and Utilities Commissioners before us.

They have a committee that has been studying this knotty problem for many years. They have been issuing a yearly report, starting in 1952. Mr. McDonald, of Georgia, who is a very able man in this field, testified that they had not been receiving the cooperation that they should have from the Interstate

Commerce Commission. Therefore we thought that the Interstate Commerce Commission was in a position to give a lot of assistance to the problem. We put this provision in here requiring the Interstate Commerce Commission to cooperate with the State Commissions in matters of this kind.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HARRIS. Mr. Chairman, I yield myself 5 additional minutes.

Mr. BAILEY. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield.

Mr. BAILEY. Is there any inhibition against the use of any of these guaranteed funds for the payment of interest and principal on existing indebtedness?

Mr. HARRIS. I did not understand the gentleman's question.

Mr. BAILEY. Is there any inhibition in the legislation against the use of these guaranteed loan funds for the payment of existing indebtedness?

Mr. HARRIS. No. But the guaranty may be made only of loans where the proceeds are used for capital expenditures or maintenance.

Mr. BAILEY. But there is no inhibition in there against the use of it?

Mr. HARRIS. Of course the underlying security has to have approval by the Interstate Commerce Commission. The Commission has to approve the loans themselves. Then after approval under section 20a they may guarantee the loan where it is for capital improvements. Let me say, just on that point, there is one major railroad in this country that had plans for expansion. Those plans were put on the shelf. They are on the shelf today. Thousands of their employees have been let out. The shops have been closed down. They told us if they could get financing that would be proper and justified that they would take those plans off the shelf and they would reopen their shops and would spend \$85 million this year on a program of that kind and \$145 million the next year, if they could get it. We feel that that is a situation that is certainly serious. With this kind of program we think we can do something to help them.

Mr. DOYLE. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield.

Mr. DOYLE. Section 503 is to guarantee loans for capital expenditures.

Mr. HARRIS. And certain maintenance.

Mr. DOYLE. I call your attention to page 4, under (b), where the bill says:

It shall be unlawful for any common carrier * * * to declare any dividend on its preferred or common stock while there is any principal or interest remaining unpaid on any loan to such carrier made for the purpose of financing or refinancing expenditures for maintenance.

Mr. HARRIS. Yes.

Mr. DOYLE. Do I understand that if an expenditure has been made for capital investment and it has not been paid that there still could be a dividend on stock before the actual investment loan has been paid?

Mr. HARRIS. In the first place, we do not feel, if a road is in such bad condi-

tion that it should have a loan for any part of the maintenance, then they have no business paying dividends at all. In the second place, if it is for capital improvement, they will probably negotiate a loan; and if so, there will be a Government guaranty. Then they will use some of their own, and for this particular expansion it would be over a period of 15 years. We did not feel we should bind them down to the point that they could not get any benefit out of it itself. If we do, we are not helping the present situation.

Mr. DOYLE. As I understand your answer, it is that the Government guaranty would continue on the capital investment even though the capital investment has not yet been repaid, under this section.

Mr. HARRIS. Of course, the guaranty would keep, so long as the contract was in force.

Mr. DOYLE. They could issue dividends, even though the capital investment had not been repaid?

Mr. HARRIS. Yes. That was the intention of it. Of course, we are talking about unpaid loans, and not loans in default.

Mr. GAVIN. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield.

Mr. GAVIN. I just want to compliment the chairman and the Interstate Commerce Commission on a very fine, much needed piece of legislation. I want to compliment the chairman on the very thorough manner in which he has explained in detail this proposed legislation.

It is certainly evident to the House that this legislation has been greatly needed, and it is a step in the right direction to help one of the major industries of the Nation upon which our economy and industrial life depends. Further help is needed. I just want to assure the gentleman of my wholehearted support. I trust the House will pass this bill overwhelmingly.

Mr. HARRIS. I thank the gentleman. I have taken too much time. I must proceed. There are three other provisions to which I wish to call attention. I know there are a lot of questions.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. HARRIS. Mr. Chairman, I yield myself 5 additional minutes.

Let me explain these others. I may be able to answer some of the questions you want to raise. I have explained the situation with reference to the States' rights provision. We feel that we have not invaded the States' rights principles at all, because, as a matter of fact, the States have jurisdiction over these matters at the sufferance of the Congress; and, so far as I am concerned, they should continue to have that control over these matters which they themselves can more quickly and correctly dispose of.

Section 5 of the bill has to do with competitive rates. This has been one of the hardest problems this committee has had to consider. You have the barge lines, you have had the trucks, you have had the buses, you have had the railroads at each other's throats all

the way down the line. We have worked this matter out with this language here, and we have all of these groups agreeing to it with the exception of a few of the water carriers. Their feeling about it now is caused by their needless fear of what might result because of this. But what we have done is to insist that the Commission consider the transportation policy of 1940 and the new automobile case that was laid down by the Interstate Commerce Commission in 1945.

You will find that the decisions—although they deny it—that the decisions beginning in 1950 have taken a trend away—that is the contention at least; some say it does not make any difference, but that is the situation in which we find ourselves; and this language we have here in my opinion will resolve that highly competitive problem and will work to the best interest of all the common carriers because if they keep on as they have for the last few years you are going to have a throat-cutting campaign and a situation between them that cannot exist in this country, a situation the public cannot afford to have.

Mr. CORBETT. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield.

Mr. CORBETT. I wanted to call the chairman's attention right at this very point to the fact that in section 5 he is confident that this language is strong enough to prevent one carrier from taking undue advantage of another carrier in contrast to the general policy.

Mr. HARRIS. That is true, but I will tell you another thing, though, that if a carrier can provide a rate, that is fully compensatory, to the shipping public the Commission cannot as it is contended in many instances they are doing, require that carrier to hold that rate up to a higher level just because it is necessary to keep another mode of transportation in business.

Mr. FULTON. Mr. Chairman, will the gentleman yield at that point?

Mr. HARRIS. Yes, but I must first yield to the gentleman from Texas [Mr. THOMPSON]. We do say that if a carrier can provide a rate which the Commission determines is fully compensatory to the carrier, then the shipper should have the benefit of that rate.

Mr. THOMPSON of Texas. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Texas.

Mr. THOMPSON of Texas. These questions are asked on behalf of the gentleman from Texas [Mr. THOMAS] and myself, whom the gentleman will recognize as having water carriers in their districts. I will say that I have no questions concerning the need and value of the bill, but the water carriers in my area have two questions they would like to have answered. I believe the gentleman has already answered them. One is that it is not intended by this bill to take away any of the inherent advantages of the coastal carriers?

Mr. HARRIS. Very definitely and positively not; and the Commission must take into consideration the transportation policy of 1940.

Mr. THOMPSON of Texas. That answers one of the questions they ask. The other is whether the small water carriers will be protected from so-called predatory rate reductions which are not general throughout the country.

Mr. HARRIS. I would have to have a little more explanation as to what you refer to as "little carriers" having protection from what you also refer to as "predatory rates" in certain sections.

We followed the new automobile case as laid down by the Interstate Commerce Commission which all carriers agree is correct, as I believe they have. Furthermore, the Supreme Court decided the very same question in an application that was before it in 1957, I believe it was.

Mr. THOMPSON of Texas. I think that answers the whole question. In other words, no great carrier can come in with lower rates.

Mr. HARRIS. We do not permit any carrier to engage in destructive competitive practices.

Mr. THOMPSON of Texas. That answers the question and I thank the gentleman.

Mr. FULTON. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Pennsylvania.

Mr. FULTON. I asked this question previously along the same lines. Likewise I want to emphasize this bill and this legislation is not an attempt to alter the basic national transportation policy under the Transportation Act of 1940, is it?

Mr. HARRIS. The language in the bill so states.

The CHAIRMAN. The time of the gentleman from Arkansas has expired.

Mr. HARRIS. Mr. Chairman, I yield myself 5 additional minutes.

Mr. FULTON. So that it would simply be that this legislation is a guide to the Commission, not an alteration of the basic transportation policy; is that true?

Mr. HARRIS. That is true.

Mr. FULTON. I thank the gentleman.

Mr. WILLIS. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Louisiana.

Mr. WILLIS. May I say to the gentleman that I am in general agreement with this bill but there is one question that disturbs me. I refer to section 3 (a) of the Senate bill which reads:

Whenever in any such investigation the Commission finds that any such rate causes any undue or unreasonable advantage as between persons or localities in intra commerce on the one hand and interstate or foreign commerce on the other, it shall prescribe a rate thereafter to be charged.

As I understand it, this language is not in the gentleman's bill?

Mr. HARRIS. No; it is not. We did not touch that subject.

Mr. WILLIS. I wanted to be sure of that.

Mr. HARRIS. That is true.

Mr. Chairman, section 6 has to do with the agricultural commodities exemption. The Supreme Court decided in the East Texas Motor Freight case in 1956, title 351, United States Code, section 49, that

fresh and frozen dressed poultry are exempt agricultural commodities within the meaning of section 203 (b) (6) of the act. This decision opened up the exempt status of commodities far beyond what the Congress ever intended. Of particular significance in this case was the pronouncement of the Court that where the commodity retains a continuing substantial identity through the processing stage it cannot be considered as a manufactured commodity within the meaning of section 203 (b) (6). When you get a decision like this it is always difficult to get back to the original intent of the Congress in passing section 203 (b) (6).

What the committee did was to stop the further broadening of the exemption by taking the list of exempt commodities set forth in ruling No. 107 of the Bureau of Motor Carriers of the Interstate Commerce Commission and make certain adjustments in it, namely, to put back under regulation frozen fruits, vegetables, berries, some imported commodities, and certain wool. The list in ruling No. 107, with the adjustments indicated, would constitute the categories of exempt and nonexempt commodities for the purposes of section 203 (b) (6).

Mr. BALDWIN. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from California.

Mr. BALDWIN. Can the gentleman tell me why you have added the provision on wool, cleaned or scoured, and wool tops?

Mr. HARRIS. It was included in the amendment, along with coffee, tea, cocoa, and hemp, and wool imported from any foreign country, and so forth. The amendment was adopted. I understand the gentleman from Massachusetts [Mr. MacDONALD], the author of the amendment, would be agreeable to striking the words "wool, cleaned or scoured." If that is true, and it meets with the objections of the wool people, I would be glad to accept it.

Mr. WESTLAND. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Washington.

Mr. WESTLAND. I notice that you have exempted or excluded frozen fruits and frozen vegetables and you will put them under a regulatory proposition with the railroads. Some of my canners have made inquiry.

Mr. HARRIS. Not the railroads. They will be regulated commodities, so far as trucks are concerned.

Mr. WESTLAND. You have truckers that are not at the present time regulated, and they would be under a regulated status.

Now let me ask this question. In connection with a trucker who is presently hauling these frozen vegetables, and has filed rates with the Interstate Commerce Commission, and if the rates previously set were compensatory, could he then continue to carry those frozen fruits and vegetables at the same rate?

Mr. HARRIS. Yes. Those truckers which handled, on June 1, 1958, commodities put back under regulation by

this bill will be entitled to grandfather rights.

Mr. WESTLAND. He would then become a common carrier under this particular section, would he not?

Mr. HARRIS. A common or contract carrier if approved by the Interstate Commerce Commission.

Mr. WESTLAND. If he were approved, and if he was on a compensatory basis, he could then continue to carry the products at the same rate?

Mr. HARRIS. Well, he would have to abide by all the regulations of the Commission.

The next provision is section 7. This has to do with the pseudo-private carriers, those that engage in buy-and-sell operations, and other subterfuges to escape economic regulation. Section 7 would prohibit this type of operation, but would not interfere with bona fide private carriage as recognized in the Supreme Court's decision in the Brook's case (340 U. S. 925 (1951)).

Mr. Chairman, there can be no question about the need for maintaining a sound common carrier transportation system adequate for the demands of our economy in the requirements of our national defense. For some time now, however, it has been apparent that while our overall transportation system has grown, our common carriers have been suffering. This trend has been continuing for some years but has been accentuated over the past few months owing to the effects of the economic recession. This is a fact of which I am sure that all the members are aware and I do not here have to repeat the statistics that so clearly demonstrate this situation which are set forth in the committee report on the bill which you have before you.

Our committee is convinced from our hearings and studies that something must be done now and must be done quickly if our common-carrier transportation system is to be preserved in a position to continue to meet what is required of it.

The five changes in the Interstate Commerce Act to strengthen our common carrier transportation system are as follows:

First. Section 2—adding a new part V to the act—provides a method of temporary financial assistance to encourage railroads to reinstitute their presently suspended capital improvement and maintenance program, and thus stimulate reemployment of labor, and the purchase of materials, equipment, and supplies. The Interstate Commerce Commission is authorized, to March 31, 1961, to guarantee, in whole or in part, loans maturing within 15 years made to carriers by public or private financial institutions where the proceeds are to be used for capital expenditures, including additions and betterments, or for maintenance of road and equipment. Where the proceeds are for purposes of maintenance, the guaranty may not exceed 50 percent of the amount charged for maintenance in the preceding year, and it is unlawful for dividends to be declared during the period of the guaranty.

Second. Sections 3 and 4—amending section 1 and adding a new section 13a to the act—permit railroads, at their option, to have the Interstate Commerce Commission, rather than State commissions, pass upon discontinuance or change in the operation of any train or ferry, where such are operated on a line of railroad not located wholly within a single State.

Third. Section 5—amending section 15a of the act—adds a new paragraph to guide the Commission in competitive rate cases.

Fourth. Section 6—amending section 203 (b) (6) of the act—freezes the so-called agricultural exemption from motor-carrier regulation by the Commission to the present list of exemptions, except for a rollback on frozen fruits, frozen berries, frozen vegetables, coffee, tea, cocoa, hemp, wool imports, and certain categories of domestic wool—that is, these articles would no longer be exempt.

Fifth. Section 7—amending section 203 (c) of the act—makes it clear that "private carriage" involving pseudo buy-and-sell techniques is subject to regulation. There is no change affecting any private carrier transportation where such transportation is incidental to or in furtherance of a primary business enterprise—other than transportation.

I think it is important to discuss each of these five legislative recommendations in somewhat more detail.

First. Financial assistance to railroads: The decline in traffic which started last fall and has continued in substantial magnitude has appreciably affected the current cash position of many railroad carriers. As a result, they perforce have had to suspend their authorized programs for additions and betterments to, or expansion of, their carrier properties and to defer purchase of equipment. This, naturally, has had a profound effect not only upon the railroads' direct employment, but also upon the industries supplying the railroads.

Indeed, the following figures for railroad employment show a drop of 60,000 since the first of the year to a level at mid-May of 180,000 less than a year ago, the lowest railroad employment since 1898.

While the worsening situation is true with respect to the railroads as a whole, some railroads, particularly in the East, are in grave economic difficulties, and the committee had testimony to the effect that it is doubtful whether some of them will be able to avoid going into receivership during the year. In the midst of the uncertainty surrounding predictions of the depth and duration of the recession, this situation is especially alarming, for were some of the major railroads to go into receivership, the resulting impact would be serious not only to the industry but to the country as well.

With the financial assistance provided by this bill, the committee has been reliably informed that many carriers immediately would reinstitute already authorized capital expenditure programs amounting to millions of dollars. Such action, without further delay for the drawing board or blueprint stage,

straightaway would provide substantial reemployment by the railroad industry, and through the purchase of materials, equipment, and supplies would afford a great stimulus to the industries supplying them. This stimulus is extremely important and timely right at this moment.

This financial assistance program is to be administered by the Interstate Commerce Commission. Inasmuch as the Commission under existing law necessarily must approve the underlying securities, here subject to being guaranteed, the committee believes that the Commission is in the best position simultaneously to pass upon the guaranty under the clear-cut standards set up in the bill. It has seemed to the committee that the promptness with which any such financial assistance is rendered is a requisite of the first order, for the impetus which the reinstitution of these capital programs, the reemployment of labor, and the purchase of materials, will give is of utmost significance at this particular moment.

The bill accordingly, in section 2, adds a new part V to the Interstate Commerce Act under which the Commission, to March 31, 1961, may guarantee up to 100 percent of the principal of loans made by public and private financial institutions where the proceeds are to be used by railroads for capital improvements or for maintenance. The period of the guaranty cannot exceed 15 years. Where the proceeds are to be used for maintenance, the amount of the guaranty is limited to not more than 50 percent of the amount charged by the railroads in the preceding year for maintenance, and it is made unlawful for the railroads to declare any dividends while the guaranty is outstanding on the loan for this purpose.

Second. ICC authority over discontinuance of passenger service: A major cause of the worsening railroad situation is the unsatisfactory passenger situation. Not only is the passenger end of the business not making money—it is losing a substantial portion of that produced by freight operations.

The true deficit from railroad passenger service is in dispute. The Interstate Commerce Commission estimates it in the neighborhood of \$700 million a year, though it currently is conducting an investigation which involves reconsideration of its present rules governing distribution of costs between freight and passenger service. Whatever the deficit is, it is clear that it is large and constitutes a substantial burden on revenues from freight.

The passenger loss for last year was stated by one railroad president, as amounting to \$57 million and by another as amounting to \$52 million based on the Interstate Commerce Commission distribution of costs. It is obvious that to meet such losses, freight rates must be kept at a higher level than otherwise necessary.

It is obvious that in very great measure these passenger losses are attributable to commuter service. It is clear that where such necessary services cannot be made to pay their way, the inter-

ested communities have a very real interest in working out the problem. It would seem evident that if such urban or interurban commuting service must be preserved, losses incurred will have to be met in some way by the communities. It is unreasonable to expect that such service should continue to be subsidized by the freight shippers throughout the country.

There are substantial losses, however, occurring in passenger service beyond those attributable solely to commuter service. Where this passenger service—and passenger service means more than merely transportation of passengers, and involves head-end service, such as baggage, mail, and express—cannot be made to pay its own way because of lack of patronage at reasonable rates, abandonment seems called for.

Under the act, the Interstate Commerce Commission has jurisdiction over the complete abandonment of a line of track. The discontinuance or change of schedules of trains—without complete abandoning of the line of track over which they operate—however, is subject to the jurisdiction of the interested States. Such local regulation of what has come to be a national problem has hampered the railroads from making some changes in their passenger train operations in line with changes in patronage, and has contributed greatly to the passenger deficit. The National Association of Railroad and Public Utilities Commissioners has been active in recommending a more helpful attitude on the part of its members, but the recommendations appear not to have been adopted by some of them.

Because of this delay in authorizing, or absolute refusal to authorize, discontinuance of little-used services, section 4 of the bill adds a new section 13a to the act, whereby the railroads, at their option, may have the Interstate Commerce Commission, rather than State commissions, pass upon the discontinuance or change in the operation or service of any train or ferry. This option is limited, however, to the operation or service of a train or ferry on a line of railroad not located wholly within a single State. This limitation is contained in the bill being reported because the committee feels that the record at this time does not support the broader change in venue, requested by the railroads, which would have covered Interstate Commerce Commission jurisdiction also over operations more local in character, such as those of a branch line or other line of railroad located solely within one State.

The bill as introduced also covered the Interstate Commerce Commission passing upon discontinuance or change of the operation or service of stations, depots, or other facilities. This jurisdiction has not been included in the bill as reported, as the committee believes the record presented in its hearings does not support the need for transferring such jurisdiction from State regulatory bodies.

While the Interstate Commerce Commission, on March 19, 1956, instituted on its own motion an investigation into

and concernig the deficit from passenger train and allied services, which has been the subject of prehearing and informal conferences between the Commission staff and interested parties, the committee believes that such study actively should be pursued, and pursued in cooperation with State utilities commissions, so that the Commission soon may make recommendations for appropriate action in this troublesome and burdensome field. The bill reported, accordingly, contains a direction to this effect for a report not later than June 30, 1959.

Third. Competitive ratemaking: In the past few years probably no subject has been given any more extensive hearings or attention by the committee than that of competitive ratemaking as between the different modes of transportation.

In 1955, the Presidential Advisory Committee on Transport Policy, of which the Secretary of Commerce was chairman, recommended a change in the rule of competitive ratemaking. This proposal was the subject of hearings by the committee in 1955, 1956, and 1957, at which time the proposed change was vigorously supported by the railroads and vigorously opposed by the motor and water carriers.

Again, during the past 2 months further hearings had been had on the proposed change on the rule of competitive ratemaking during which the Secretary of Commerce indicated that he now feels that his original proposal had gone too far, and he presented a modified version of it. Other witnesses also presented modifications of the original stand and it now appears that as a result of efforts which have been made to reconcile the different viewpoints, the language contained in section 5 of the bill is acceptable to all the competing modes of transportation, though it is only fair to say that none enthusiastically supports the compromise. At this point I insert statements made on this compromise by the heads of the Association of American Railroads and of the American Trucking Association:

ASSOCIATION OF AMERICAN RAILROADS,
Washington, D. C., May 27, 1958.

Congressman OREN HARRIS,
Chairman, Transportation and Communications Subcommittee, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D. C.

DEAR CONGRESSMAN HARRIS: This is in response to a request, which Congressman ROBERTS addressed to representatives of the Association of American Railroads at the conclusion of hearings before your subcommittee yesterday, for comments on section 5 of S. 3778 as approved by the Senate Committee on Interstate and Foreign Commerce May 26, 1958. This section would add a new subparagraph (3) to the rule of ratemaking as set forth in section 15a of the Interstate Commerce Act.

In 1940 the Congress made clear its intent that all forms of transport be governed by the same basic rule of ratemaking under which railroad rates would be based on railroad conditions, truck rates on truck conditions and water carrier rates on water transportation conditions. While the language of the revised rule is not as definitive as had been hoped, we believe it constitutes a reaffirmation of this purpose of the Trans-

portation Act of 1940 and a bar to the paternalistic approach of disallowing a carrier's rates to protect the traffic of another mode of transportation.

Put in another way, this provision recognizes the soundness of the interpretation placed on the act by the Interstate Commerce Commission in the *New Automobiles* case and should prevent future deviations from it.

In general, it may be said that this proposal does not give us the full measure of relief we sought in the making of competitive rates but clearly it does permit the forces of competition to play a stronger part in ratemaking than heretofore.

Accordingly, we intend to support the proposal.

Respectfully yours,

DANIEL P. LOOMIS.

RELEASE FROM THE AMERICAN TRUCKING ASSOCIATION, INC., WASHINGTON, D. C.

WASHINGTON, D. C., May 27.—Guy W. Rutland, Jr., president of American Trucking Association, today made the following statement:

"The trucking industry has consistently opposed any weakening of the Interstate Commerce Commission's power to prevent destructive competition in transportation.

"The proposed amendment to the ratemaking provisions of the Smathers bill, S. 3778, as reported out by the Senate Committee on Interstate and Foreign Commerce, appears to retain such essential power in the ICC.

"To the extent that the writing into statutory form of the present policy of the ICC, may once and for all put an end to the continuous complaint of the railroads, that a so-called umbrella is being held over the rates of rail competitors, the trucking industry does not oppose this specific proposal."

The committee believes that each mode of transportation should have opportunity to make rates reflecting the different inherent advantages each has to offer so that the public may exercise its choice among them, cost and service both considered, in the light of the kind of transportation desired. The committee believes, however, and the national transportation policy is clear, that such ratemaking should be regulated by the Commission to prevent unfair destructive practices on the part of any carrier or group of carriers.

It nevertheless appears that the Interstate Commerce Commission has not been consistent in the past in allowing one or another of the several modes of transportation to assert their inherent advantages in the making of rates. In 1945 in *New Automobiles in Interstate Commerce* (259 I. C. C. 475), the Commission said:

As Congress enacted separately stated ratemaking rules for each transport agency, it obviously intended that the rates of each such agency should be determined by us in each case according to the facts and circumstances attending the movement of the traffic by that agency. In other words, there appears no warrant for believing that rail rates, for example, should be held up to a particular level to preserve, a motor-rate structure, or vice versa (259 I. C. C. at p. 538).

In *A. W. Schaffer Extension—Granite* (63 M. C. C. 247), the Interstate Commerce Commission denied an application by a common carrier by motor vehicle for authority to transport granite between various points which were being served exclusively by rail. The Commission based its denial of the application

on the ground that the rail service was reasonably adequate, that the main purpose of the witnesses who supported the application was to obtain lower rates rather than improved service, and that this was not a proper basis for a grant of authority. The Supreme Court in *Schaeffer Transportation Co., et al. v. United States* (355 U. S. 83 (1957)) reversed the Commission, and in its opinion said:

To reject a motor carrier's application on the bare conclusion that existing rail service can move the available traffic, without regard to the inherent advantages of the proposed service, would give one mode of transportation unwarranted protection from competition from others.

Later in the opinion it said:

The ability of one mode of transportation to operate with a rate lower than competing types of transportation is precisely the sort of inherent advantage that the congressional policy requires the Commission to recognize.

The committee believes that the Commission consistently should follow the principle of allowing each mode of transportation to assert its inherent advantages, whether they be of cost or service, giving due consideration to the objectives of the national transportation policy declared in the Interstate Commerce Act. The objectives of this policy of the Congress are to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this act, so administered as to recognize and preserve the inherent advantages of each; to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportations and among the several carriers; to encourage the establishment and maintenance of reasonable charges for transportation services, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices; to cooperate with the several States and the duly authorized officials thereof; and to encourage fair wages and equitable working conditions; all to the end of developing, coordinating, and preserving a national transportation system by water, highway, and rail, as well as other means, adequate to meet the needs of the commerce of the United States, of the Postal Service, and of the national defense.

The committee feels accordingly, that an amendment to the rule of ratemaking is desirable to serve as a guide to the Commission in achieving consistency in its treatment of competitive rate cases. The bill being reported proposes a new paragraph (3) to section 15a, applicable to all of the modes of transportation subject to parts I, II, III, and IV of the act, reading as follows:

In a proceeding involving competition between carriers of different modes of transportation subject to this act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this act.

The committee is of the opinion that the effect of this amendment will be to encourage competition between the different modes of transportation for the benefit of the shipping public. It understands that the amendment, while not having the full endorsement of all of the modes of transportation, at least is not unacceptable to any of them.

AGRICULTURAL COMMODITIES EXEMPTION—SECTION 6, AMENDING 203 (B) (6) OF THE ACT

The agricultural commodities exemption contained in section 203 (b) (6) of the Interstate Commerce Act provides that nothing in part II of the act (relating to the regulation of motor carriers), except certain requirements as to qualifications and maximum hours of service of employees and safety of operation or standards of equipment, shall be construed to include "motor vehicles used in carrying property consisting of ordinary livestock, fish—including shellfish—or agricultural—including horticultural—commodities not including manufactured products thereof—if such motor vehicles are not used in carrying any other property, or passengers, for compensation."

This exemption from economic regulation was intended to aid farmers and other producers of domestic foodstuffs by relieving them of some of the burdens of regulation so that the movement of their products from point of production to market or to processing or storage points would be facilitated. However, as a result of a series of court decisions which began in 1948 with *Interstate Commerce Commission v. Love* (77 F. Supp. 63, affirmed 172 F. 2d 244), and continued through 1957 in *Frozen Food Express v. United States* (148 F. Supp. 399, affirmed 355 U. S. 6), the exemption has been extended to the transportation of commodities that have received varying degrees of commercial processing which, in my opinion, extends far beyond the scope of exemptions the Congress intended to grant by this section of the law.

In *East Texas Motor Freight Lines, Inc., et al. v. Frozen Food Express, et al.* (351 U. S. 49, decided April 23, 1956), the Supreme Court in a 5 to 4 decision, held that fresh and frozen dressed poultry are exempt agricultural commodities within the meaning of section 203 (b) (6). Of particular significance in this case was the pronouncement of the majority that where the commodity retains a continuing substantial identity through the processing stage we cannot say that it has been manufactured within the meaning of section 203 (b) (6), and the further statement that the exemption is concerned with the stage of the processing, not with the person who does it. The difficulties involved in drawing a line of distinction between agricultural commodities and manufactured products thereof is demonstrated by the fact that the Court was so closely divided as to the status of fresh and frozen dressed poultry.

In another case, the Supreme Court, on November 5, 1956, affirmed, without opinion, the holding of a Federal district court in *Home Transfer & Storage Co. v. United States* (141 F. Supp. 599), that frozen fruits and vegetables also come within the exemption. Significant of

this trend are subsequent district court decisions holding that dried milk, dried egg powder, shelled nuts, dried fruits, and a number of other commodities are exempt.

As a consequence of these court decisions a great many commodities were declared by the Interstate Commerce Commission to be exempt, which were formerly regulated. On March 19, 1958, the Bureau of Motor Carriers of the Interstate Commerce Commission issued administrative ruling No. 107 on agricultural exemptions in which the Bureau compiled a list of agricultural commodities showing the exempt or nonexempt status of each as decided by the courts, by the Commission, and by Bureau opinion. The Bureau's ruling No. 107 is set forth in appendix A to House Report 1922 relating to this bill.

Regulated carriers are handicapped in their competition with nonregulated carriers for traffic in exempt agricultural commodities. The unregulated carriers are not subject to ICC operating authority, control, rate regulation, rules requiring equal treatment to shippers, areas and commodities, and rules requiring insurance and claims responsibility of which all regulated carriers are subjected. The nonregulated carriers can pick and choose whatever traffic they desire and establish their rates at whatever levels they wish without making them public and without considering whether the charges are reasonable or nondiscriminatory, as required by regulated carriers. As a consequence, large and ever-increasing volumes of important agricultural commodities and seafood previously handled by regulated carriers, both rail and truck, have been diverted to the exempt truckers and the diversion continues. The impact upon the regulated carriers is already serious. The removal of further classes of traffic from the regulated category is threatened by the trend of administrative and judicial determinations, expanding the scope of the exemption.

If the Supreme Court's continuing substantial identity test continues to be applied literally by the courts, it is conceivable that a considerable number of other commodities will be held to be exempt such as canned fruits and vegetables which are processed at large industrial plants rather than by farmers. It is important that this trend be halted before the position of the regulated carriers is more seriously impaired. The committee, therefore, recommends in section 6 of this bill a freezing, with a slight rollback, of the agricultural exemption in accordance with ruling No. 107, March 19, 1958, Bureau of Motor Carriers of the Interstate Commerce Commission. This amendment would halt further expansion of the scope of the exemption, and it would return to economic regulation the transportation of frozen fruits, frozen berries, frozen vegetables, coffee, tea, cocoa, hemp, imported wool, and certain categories of domestic wool. The transportation of cooked fish or shellfish, now subject to regulation is made exempt from such regulation. It is not intended that this exemption shall apply to fish or shellfish

which have been treated for preserving such as canned, smoked, salted, pickled, spiced, corned, or kippered products.

The bill provides grandfather rights to truckers who were engaged on June 1, 1958, in trucking agricultural commodities which are returned to regulation by this amendment.

We believe it will be of benefit to the common carriers in that the further erosion of regulated traffic will be stopped and some of the traffic now exempted from regulation will be returned to regulated carriers.

PSEUDOPRIVATE CARRIAGE—SECTION 7, AMENDING SECTION 203(C) OF THE ACT

The erosion of traffic of regulated carriers has also been caused to a considerable extent by the growth of pseudo-private carriage by truck. One of the subterfuges most commonly used in this type of carriage is the buy-and-sell arrangement, whereby fictitious bills of sale and invoices are used to make it appear that the commodities being transported by truck are those of the vehicle owner and operator and that the transportation involved is private carriage. The real business of persons engaged in this type of operation is, in fact, transportation, and the movement of goods performed by them is not in furtherance of any primary, or bona fide business enterprise other than transportation.

In addition, businesses which use their own trucks to deliver their own merchandise, are purchasing goods at or near the final point of delivery of their own merchandise, and transporting such goods to places near their own establishments for sale to others. Such transportation is usually performed solely for the purpose of receiving compensation for the otherwise empty return of their trucks. Sometimes the purchase and sale is a bona fide merchandising venture. In other instances, prearranged plans are set up in order that the real consignee may receive transportation at a reduced cost.

This pseudo-private carriage is a subterfuge for engaging in public transportation without complying with the certificate or permit requirements of the Interstate Commerce Act. It constitutes a growing menace to shipper and carrier alike, and is not in the public interest. It is injurious to sound public transportation. It promotes discrimination between shippers and threatens the existing rate structures of regulated carriers. It makes possible the avoidance of payment of the Federal transportation of property tax, for this tax is not levied on the transportation of property owned by the carrier.

During the committee's hearings on H. R. 5825, a bill which the Interstate Commerce Commission recommended to cope with this problem, many witnesses expressed the fear that if the definition of a private carrier of property by motor vehicle was changed, as proposed in this bill, it would open the door to reconsideration of the concept of the primary business test of private carriage as enunciated by the Commission in the Lenoir Chair case (51 M. C. C. 65 (1949)) and by the United States Supreme Court

in the Brooks case—*Brooks Transportation Co. v. United States* (340 U. S. 925 (1951)).

In the Brooks case, the Supreme Court recognized the so-called primary business test as the governing criterion in establishing bona fide private carriage. Under that doctrine, if transportation is performed in furtherance of the primary business of the operator, even though a charge may be made for such service, the transportation is treated as bona fide private carriage. If, however, a bona fide noncarrier business is not established, the transportation is treated as for-hire.

This doctrine has been helpful to the bona fide private carriers. They are fearful that any amendment of the definition of "private carrier of property by motor vehicle" may result in an unsettling of the primary business test and require them to embark upon another long series of litigation similar to that which culminated in the Brooks decision.

Under these circumstances, several witnesses recommended, and this committee favors, the further amendment to section 203 (c) of the act contained in section 7 of the reported bill. This amendment provides that no person shall, in connection with any other business enterprise, transport property by motor vehicle in interstate or foreign commerce unless such transportation is incidental to, and in furtherance of, a primary business enterprise—other than transportation—of such person. There is no intention on the part of this committee in any way to jeopardize or interfere with bona fide private carriage, as recognized in the Brooks case.

Mr. Chairman, this is a good bill, and with the amendments offered, I hope it will be adopted.

Mr. WOLVERTON. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota [Mr. O'HARA].

Mr. O'HARA of Minnesota. Mr. Chairman, I should like to initiate my remarks by complimenting the very able and distinguished gentleman, the chairman of our committee, Mr. HARRIS, of Arkansas, for not only reporting out a bill which I think is an excellent bill but for the hard work and patience and diligence with which he has pursued this great problem of transportation which is ours today.

I assure you that both the Subcommittee on Transportation and the entire Committee on Interstate and Foreign Commerce are concerned generally with our national transportation system and the welfare of that system, and the recognition which our committee gives to the tremendous importance of having the finest transportation system of any country in the world.

As the gentleman from Arkansas has so well said, this has been an exceedingly difficult problem for many reasons, one of them because of the tremendous competition between the railroads, the trucks, the surface carriers. Of course, the airlines are not involved in this, but they are also competitors with the other carriers in various ways.

Mr. Chairman, I do want to say to you that I wholeheartedly support this bill. I know that there will be some amend-

ments offered to the bill, and I do not know of a single individual on the committee who intends to offer an amendment and, whether his amendment is adopted or not, but what will support the bill on final passage.

I think all of us recognize the emergency which exists and the fact that if one of our great railroad systems should become bankrupt, its impact not only upon the transportation system but upon the economic system of our country would be far-reaching and disastrous. I think all phases of this bill are important as they have been outlined by the gentleman from Arkansas [Mr. HARRIS]. Certainly the matter of finances is most important, in my opinion. Not all of the railroads are in need of this financial assistance that is offered in this bill. Some of them are. Amazingly, one of the roads that we have always considered one of the largest, and with the heaviest traffic, and which has always been considered as one of the outstanding carriers is in that situation right at this minute.

There are some differences between this bill and the bill which was passed in the other body, known as the Smathers bill. Personally, with some of the refinements that are in this bill, I like it better than the bill which was passed in the other body. But whatever is done here, whether this bill is amended or passed as it is, it will be necessary that we follow with a conference, which will be important in working out the differences between these two bills. But I do say to you, Mr. Chairman, that I urge my colleagues to support this legislation generally because I think it is in the interest of our country, in the public interest, that we have the sound transportation system that we must have.

Mr. ROBSION of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. O'HARA of Minnesota. I yield to the gentleman from Kentucky.

Mr. ROBSION of Kentucky. Mr. Chairman, I would like to ask the gentleman if the wording of section 5 is such that it would be possible for one type of carrier to lower its rates to such an extent that another carrier would not be able fairly to compete?

Mr. O'HARA of Minnesota. I think the language is rather plain and means exactly what it says; that is if that particular mode of transportation has a compensatory rate and it is lower than that of the competitor, the Interstate Commerce Commission would have to allow that competing form of transportation to charge a lower rate. Does that answer the gentleman's question?

Mr. ROBSION of Kentucky. I suppose so, but it is not my understanding that section 5 would permit one carrier to lower its rate to the point where another type of carrier could not compete fairly.

Mr. O'HARA of Minnesota. We say in the bill and I quote:

Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this act.

Mr. HARRISON of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. O'HARA of Minnesota. I yield to the gentleman from Nebraska.

Mr. HARRISON of Nebraska. Mr. Chairman, I would like to ask with respect to a private carrier who is transporting manufactured products to a certain point, would he be permitted under this legislation to return with a pay load of raw products that he uses in fabricating his manufactured product?

Mr. O'HARA of Minnesota. If it is in connection with his business, I think he could. But it would definitely have to be in connection with his business.

Mr. HARRISON of Nebraska. But if it is in connection with his business he may bring back a pay load?

Mr. O'HARA of Minnesota. He can bring back a pay load but not a pay load for somebody else.

Mr. HARRISON of Nebraska. A pay load for himself in that particular instance?

Mr. O'HARA of Minnesota. That is my understanding.

Mr. HARRISON of Nebraska. If it is in connection with his manufacturing business.

Mr. O'HARA of Minnesota. His own business, yes.

Mr. THOMSON of Wyoming. Mr. Chairman, will the gentleman yield?

Mr. O'HARA of Minnesota. I yield.

Mr. THOMSON of Wyoming. I want to congratulate the gentleman on the statement he has made, and the committee on the work it has done in bringing out this bill, which I think is a very necessary one. It is essential to the economy and security of this country that we have a sound public transportation system. This legislation is necessary to preserve the very important railroad segment of that system and the jobs of those who work on the railroads. It will benefit all common carriers. It is in the public interest. I intend to support it. As the gentleman says, some amendments may be necessary, but in overall principle I am sure the bill will have the overwhelming support of this House.

Mr. O'HARA of Minnesota. I thank the gentleman.

Mr. JENSEN. Mr. Chairman, will the gentleman yield?

Mr. O'HARA of Minnesota. I yield to the gentleman from Iowa.

Mr. JENSEN. Is there any provision in this bill which would change the present system of a company that owns a truck or a fleet of trucks hauling their own goods to their customers? Is there anything in this bill that would change that operation?

Mr. O'HARA of Minnesota. No.

Mr. JENSEN. I am wholeheartedly in favor of this bill. I think the committee has done a good job.

Mr. O'HARA of Minnesota. I thank the gentleman.

Mr. JENSEN. I think it is a very necessary bill.

Mr. HARRIS. Mr. Chairman, I yield 5 minutes to the gentleman from Alabama [Mr. ROBERTS].

Mr. ROBERTS. Mr. Chairman, I think the chairman of our committee, the gentleman from Arkansas, has done a very fine job in explaining this bill. Due to the limited time I have, I am not going to be able to yield to my colleagues.

Mr. Chairman, I am sure that every Member of the House appreciates the fact that one of the basic contributors to the growth and strength of our great Nation has been our sound transportation system. In the great transportation service offered by our vast network of rail, motor, water, air, pipeline, and other modes of transportation this Nation stands second to none.

The backbone of our transportation system is comprised of our common carriers, and these common carriers must be preserved and maintained in position to render the transportation demanded of them by the requirements of our economy and the needs of our national defense.

Unfortunately, in recent years our regulated surface common carriers have suffered from a steady erosion of traffic which has affected their revenues and their ability to maintain and develop their properties to the degree required of them.

In the last 10 years the railroad carriers' share of the total intercity freight traffic has dropped from 62 to 47 percent, and the regulated motor carriers' share of the intercity freight traffic carried by motor vehicle has dropped from 40 to 32 percent.

The decline in traffic has not been offset by added revenues, and with costs going up the net income has declined. Since the recession has been more pronounced in the Eastern area, where steel and steel products constitute a large proportion of the traffic, the Eastern railroads have been suffering severely. We have been reliably informed that something must be done or some of them will soon be in bankruptcy.

I might mention, too, at this point, that there has been a serious drop in railroad employment; in fact, from mid-May of 1957 to May of 1958 there has been a drop of over 176,000 employees.

For some time our committee has been studying and has taken much testimony on the problems affecting the surface common carrier transportation industry. The bill we have reported puts together five recommendations which the committee believes will substantially aid this industry if they are enacted into law. I believe very strongly in these recommendations, except for a reservation I have as to one of them.

I might say that my reservation is to that part of the bill which virtually bypasses the State commissions. We had testimony from Mr. McDonald, who is president of the National Association of Railroads and Utilities Commissions. This organization has made a study of this problem for the last 8 years. As far as I have been able to find out, the proponents of this new section, which would virtually emasculate State regulation, did not make out a very good case.

The figures which are contained in the supplemental views and carried at page 21 of the report show that out of a total of 1,274 applications for abandonment only 197 were refused by the State commissions. This means that almost 86 percent of these applications were granted.

In the case of agency discontinuances, the figures are almost the same. Out of a total of 2,466 applications there were refusals in only 372 cases.

I admit that in the eastern section of the country, with commuter traffic, there is a problem which needs attention, however, I do not believe it necessary to resort to the provisions of section 4. I see no reason for condemning the other 44 State commissions who are doing a good job because the commissions of 2 or 3 States are accused of not doing a good job, and yet in some of these States for instance, in the State of New York out of 107 applications 69 were approved, and only 48 were denied.

(Mr. ROBERTS asked and was given permission to revise and extend his remarks.)

Mr. WOLVERTON. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana [Mr. BEAMER].

(Mr. BEAMER asked and was given permission to revise and extend his remarks.)

Mr. BEAMER. Mr. Chairman, I have a keen interest in this bill, as I know all of the other Members of the House who have spoken have expressed their interest.

First of all, we want to study the status of the transportation industry in the country and specifically, shall we say, the status of the railroads. Those of you who may be interested in the financial condition of the railroads should remember that only in 1945 the railroads had a net working capital of \$1.6 billion and on January 31 of this year that net working capital had dropped down to less than \$400 million. That shows you the situation in which one segment of the transportation industry finds itself. That is the reason the Committee on Interstate and Foreign Commerce has been very active in this session and in previous sessions in attempting to solve this particular situation. The House bill, H. R. 12832, which is presently being considered, is the one which I hope will be approved only with the committee amendments, which are perfecting amendments. This really is a transportation bill but I think, rightfully and truthfully, we can say it is a railroad bill because it is designed to allow the railroads to help themselves. I repeat the old adage, "an ounce of prevention is worth a pound of cure." If we can get that ounce of prevention today, I believe the pound of cure will come in the increased employment of railroad people and the other industries that are immediately affected by and with the transportation and railroad industry. The railroads have been regulated to such a degree that many of us think, perhaps, that is the cause of the strangled condition in which they find themselves at the present time. This bill does not remove the regulations, but redefines cer-

tain authority and particularly that which is concerned with interstate transportation.

Our railroads must be recognized as being very important in times of peace and in times of war. So I am appealing to you to really consider this bill very, very carefully. The bill has been explained in great detail, but I would like to repeat its five principal features. It offers temporary financial assistance with certain Federal Government guaranties. It gives more authority to the Interstate Commerce Commission, particularly to pass upon the discontinuance of train or ferry service that is not wholly within the State. Then it affords a new guide in competitive rate cases and also freezes the so-called agricultural exemption of certain agricultural commodities excluding foreign agricultural products. Finally, it strengthens the definition of primary business or enterprise.

I want to explain why it is so very important that this bill should be considered as it is being considered because all of the interested parties agreed to the present legislation. May I illustrate. The railroad brotherhoods are interested in the bill and they have come to an agreement on the provisions. The railroad management is agreeable. The truckers have favorably expressed themselves. The Indiana Public Service Commission has expressed itself to me, and I think many of the other public service commissions have expressed themselves in favor of that particular section which has to do with regulation. The barge lines, on the whole, have agreed to the provisions of this bill. I mention this because it provides a good complementary compromise that is agreeable to all of the transportation industries in the country.

In behalf of a great industry that has done so much to develop our country, and, in support of the deserving railroad employees who have been loyal to their trust, and for the benefit of our general economy, I hope that this worthy legislation will be adopted.

Mr. HARVEY. Mr. Chairman, will the gentleman yield?

Mr. BEAMER. I yield to my colleague.

Mr. HARVEY. First I would like to compliment my colleague on his presentation, and also upon the very fine piece of work the committee has brought to the floor.

The gentleman has answered one question that I rose to ask him, which is whether this proposal meets with the approval of our Indiana regulatory body.

Mr. BEAMER. I have talked with the chairman of the public service commission as recently as the day before yesterday. He was very much in agreement with the bill as it came from the House committee. They were in disagreement with certain features as the bill came from the other body.

Now, if I might make another suggestion, there are three large railroad centers in our district. All of these people are looking to us to do something about it. I believe this applies to every district as far as the railroads are concerned.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. WOLVERTON. Mr. Chairman, I yield such time as he may desire to the gentleman from Kansas [Mr. AVERY].

(Mr. AVERY asked and was given permission to revise and extend his remarks.)

Mr. AVERY. Mr. Chairman, I arise in support of H. R. 12832, commonly referred to today as the Transportation Act of 1958. Although I was not a member of the Transportation and Communications Subcommittee, I did sit through most of the hearings on this bill and in the form that it appears before you today I do not recall any witness appearing to oppose it.

I think we all realize that the transportation industry is the coordinating factor underlying our entire economy in America. Our early solution and improvement of our transportation problems over 100 years ago marked the beginning of the rapid industrial and population growth of this country. Even though we are aware of the importance of this great industry, many of us take it for granted that it will continue to serve our needs without respect to its continuing needs.

Because of a shifting population, changing habits on the part of the public, and the increasing popularity of motor transportation; the railroad industry has been facing serious problems since 1930. The problems were temporarily taken out of the picture by the 10 years this country was at war during which time the bulk of heavy transportation was handled by rail facilities. Since the end of the Korean war in 1953, the economic problems of the railroad have continued to increase and within the past year have become critical.

Although the general provisions of this legislation today were drafted primarily for the railroad industry, several provisions apply to all common carriers. There were several suggested provisions for this bill that our committee did not see fit to include in the present bill. Some of these provisions are the construction reserve fund and outright monetary grants to railroads. The committee did not feel that these proposals, along with others, were in the public interest and so they are not a part of this legislation. Probably the most important section of the bill is section 2, providing for a loan-guaranty program for certain railroad industries.

A brief look at the committee report will reveal that operating revenues for rail carriers have declined for the past year, the principal portion of this decline occurring in the last quarter of 1957 and the first quarter of 1958. The need for this guaranty loan does not exist among all carriers. It was established definitely during the hearings that the need for this guaranty-loan program existed primarily for the railroads operating along the eastern seaboard. It is significant also that the same lines are the ones operating extensive commuter trains at a loss, thereby placing a greater rate burden on the freight users of the same line. In the Middle West and

Far West, where the rails operate fewer passenger trains and a higher percent of their stock is engaged in transportation of freight, generally the roads are not in need of this loan program. Although there is no limit in the bill for an overall maximum amount of guaranty loans nor a limit on the amount that any one line can borrow, there are definite limitations set out in the bill that will serve as guides and practical limits for the commission in approving these loans.

Personally I feel there should be a maximum written into the bill as an overall limitation on this program. The majority of our committee, however, were not in agreement with this point of view.

The House will recall that a similar program was enacted by this Congress last year for certain air carriers. It is not anticipated that this program before the House today nor the authorization for guaranty loans for air carriers will be an expense to the Government. It should permit both carriers, however, to borrow money at a cheaper rate of interest and to continue to provide service for the public need and convenience.

Section 4 of the bill has met with some objection from State regulatory bodies. It provides some changes in the jurisdiction of discontinuance or change in operation and service on interstate commerce. Under present law, services and operations are left to the jurisdiction of State regulatory bodies, but the abandonment of a line lies strictly with the Interstate Commerce Commission. It was demonstrated in the hearings that in some instances State regulatory bodies are most reluctant, and in some cases refuse, to permit the railroads to discontinue service even though that same service is little used by the public. This has resulted in an increased operating cost to the railroads and yet has earned practically no revenue and performed little public service. Because of this unwarranted delay or reluctance to act, the committee bill provides that the railroads may have the Interstate Commerce Commission, rather than a State commission, pass upon the discontinuance or change in service on a rail line. This option to the railroads exists only if the line affected does not exist entirely within a single State. It is felt by the committee that if a fair and impartial appraisal is made for an existing service, and that a service is eliminated that is in the public interest, it would result in a saving to the railroads, thereby improving their economic stability.

Section five of the bill does modernize the transportation policy that was established in 1945 in the Automobile case. Under this section the Interstate Commerce Commission is not required to hold up an individual rate on a given commodity in interstate commerce just to protect another and competing mode of transportation. It is required however to only approve a rate that is fully compensatory to the common carrier for that service.

There was opposition to this section as it was originally drafted but as it

appears in the bill it is acceptable to most of the carriers.

Section six does not affect any agricultural commodities in the Middle West. It has been a growing tendency to exempt more agricultural commodities from regulated tariff. It will not affect a private carrier only transporting his own commodities or property.

This is not a cure for all of the economic ills in our transportation system. It does, however, present an opportunity to the railroad industry to fairly compete with other carriers and to reestablish their economic stability. It should also provide increasing employment for separated railroad employees.

With this legislation and the repeal today in this House of the 3 percent excise tax on freight, it should provide a great impetus to our transportation system.

Mr. WOLVERTON. Mr. Chairman, I yield such time as he may desire to the gentleman from Texas [Mr. ALGER].

Mr. ALGER. Mr. Chairman, there are many good features in this bill. However, section 2 of the Transportation Act of 1958, which provides Government guaranteeing of loans, should be deleted, as I see it.

Section 2 is incorrect legislative action to solve the problem. I am among those who believe guaranteeing of loans is not the function of Government. However, some do not share this view. Therefore, I shall direct my remarks taking their view into account. If the present plight of railroads is due to too much Government regulation, then we should direct our attention to the basic faults brought on by Government regulation and correct them. Otherwise, the government guarantee of loans will bury and perpetuate the very mistakes that now need correction. We do not want to encourage the paternalism of big government nor do we want to nationalize our railroads, in which direction this Government guarantee would be a major step, and it is a precedent in the history of railroading. Other general errors are discernible in section 2: First, there is no upper limit to the amount of loans that will be guaranteed by Government. Second, the guaranty has been termed "temporary" and "emergency." How temporary is 15 years, the length of the loan? Third, a criticism of inconsistency can be charged since this guaranty is limited to railroads, actually for the benefit of only several. If help is extended several, why not all railroads and then all common carriers, a logical coverage which cumulatively shows the danger of this loan guarantee. If we guarantee the financing of all common carriers, what form of private enterprise do we have? Further, the effective date is January 1, 1957 not the date of enactment of this act. Why retroactive? This is a 100 percent guaranty, when a lesser percentage would be fiscally sounder. The redtape necessary by the ICC in protecting Government credit will further ensnarl railroads in redtape and Government control.

So what should we do? Well, this bill does grant relief without section 2. The basic provisions granting such relief are: first, the ratemaking readjust-

ment; second, the elimination of non-profitable service; third, the limitation of agricultural products exemption; and fourth, a further definition of private carriers.

There are other legislative remedies Congress can extend to all ailing railroads, to transportation of all kinds and to our citizens; namely, the removal of freight and passenger excise taxes. Isn't it inconsistent, even senseless, to be taxing, on the one hand—through wartime taxes—and, on the other hand, offering government aid. Another help I would suggest would be the increase of depreciation allowance for the replacement of equipment, as on tax matters, and there are others.

Further, the railroads can help themselves with legislative help from Congress, as needed. "Time paid for but not worked" by class I railroads totaled \$241 million in 1957, according to I. C. C. figures, statement No. M-300. In addition the class I railroads "paid for but did not run" 428 million miles costing approximately \$150 million, which is 9 percent of the mileage actually run. Does it not follow that action is needed to eliminate this and other featherbedding practices which we are now about to guarantee with Government credit?

Second, the injury records of class I railroads shows a cost of \$106,644,000 in 1957, which record could be reduced in expense through additional safety precautions by at least \$50 million.

Finally, the consolidation of terminals and facilities and elimination wherever possible of duplication could provide other savings. In these efforts by the railroads to help themselves basic errors could be corrected which should be corrected and which should not be accepted and perpetuated by Government guaranteed loans.

This, generally, is a good bill without section 2 and will afford relief to the railroads and permit them to help themselves with the additional Federal corrective legislation here mentioned. And with the States recognizing their responsibilities to adjust taxes and service requirements, railroads can return to financial strength without the need of Government credit.

Therefore, let us strike section 2 from the bill.

(Mr. ALGER asked and was given permission to revise and extend his remarks.)

The CHAIRMAN. The gentleman from Texas consumed 7 minutes.

Mr. WOLVERTON. Mr. Chairman, I yield such time as he may desire to the gentleman from West Virginia [Mr. NEAL].

The CHAIRMAN. May the Chair inquire how much time the gentleman expects to use?

Mr. NEAL. Two minutes, not more than 3.

The CHAIRMAN. The gentleman from West Virginia is recognized.

Mr. NEAL. Mr. Chairman, the preceding speaker has called attention to some very pertinent facts that many of us recognize. Perhaps, after all, the railroads should put more emphasis on

making greater efforts to modify some of these bad practices.

I think this legislation as a whole is a good piece of legislation. I think it comes at a time when the railroads need a great deal of assistance, and unless we give them some privilege of modifying their rates and meeting competition I believe we are doing them a great injustice. Railroad transportation is still our most dependable mode in both peace and war. Their very existence is being threatened by outworn regulatory mandates. This bill will help them to carry on to the advantage of the Nation's welfare. For the most part it is sound legislation. I find myself opposed to guaranteeing 100-percent loans to any mode of common carrier for the reason that many of them that are going to ask the Government for loans are practically bankrupt now. If they cannot find creditors who are sufficiently convinced that they may have an opportunity to work themselves out, then Government loans are not going to bring them out. If local lenders express confidence in embarrassed roads to the extent of a willingness to assume 10 percent of the loan then Government may be justified in assuming up to 90 percent. The local financial interests should have faith and confidence in the institution's ability to save themselves.

I do not believe the Government ought to attempt to guarantee a 100-percent loan to any institution that is practically bankrupt at the time it seeks the loan.

Mr. WOLVERTON. Mr. Chairman, I yield such time as he may desire to the gentleman from Virginia [Mr. POFF].

Mr. POFF. Mr. Chairman, I rise in support of the pending bill, H. R. 12832, which is the legislative lineal descendent of H. R. 11527 on which the committee first scheduled hearings, is in substantial accord with S. 3778 as recently passed in the other body and will, if enacted into law, incorporate the essential ingredients of what has come to be popularly known as the Smathers report. In order to make an intelligent comparison of the pending bill and S. 3778, it is necessary to understand the principal provisions of S. 3778 as finally passed by the other body on June 11, 1958. The following is a brief digest and analysis:

Section 3: "Whenever * * * the Commission * * * finds that any such rate * * * causes any undue or unreasonable advantage, preference or prejudice * * * it shall prescribe the rate * * * to be charged * * * in such manner as * * * will remove such advantage * * * : *Provided*, That upon the filing of any petition * * * the Commission shall * * * institute an investigation into the lawfulness of such rate * * * (whether or not theretofore considered by any State agency or authority * * *)."

If an adjustment in interstate rates "would cause * * * advantage, preference, prejudice, discrimination or burden * * * , the Commission shall * * * authorize or permit a comparable adjustment in intrastate rates * * * , the law of any State * * * to the contrary notwithstanding."

Section 4: "A carrier * * * (whose) rights with respect to the discontinuance or change * * * of the operation or service of any train * * * are subject to * * * the constitution or statutes of any State

* * * shall be required * * * to mail to the governor * * * notice at least 30 days in advance of any such proposed discontinuance or change." Unless vetoed by ICC, the change may be made by the carrier, "the laws * * * of any State * * * to the contrary notwithstanding." If the ICC finds that the continued operation of the train "is required by public convenience and necessity and that such operation * * * will not result in a net loss," the ICC may require the continued operation for another year, upon the expiration of which, the State law takes precedence again unless the carrier reinvoles the Federal law.

Section 5: As "between carriers of different modes of transportation * * * , the Commission, in determining whether a rate is lower than a reasonable minimum rate * * * " shall not hold the rates of one carrier at a "particular level to protect the traffic of any other mode of transportation."

Section 6: The ICC "may guarantee any lender * * * against loss of principal or interest on any loan * * * which may be made" by a common carrier for the purposes of "obtaining funds to finance or refinance the acquisition or construction of equipment or additions and betterments for use in transportation service and in obtaining funds needed for operating expenses, working capital, and interest on existing obligations": *Provided*, That "the aggregate of all loans" shall not "exceed \$700 million, of which no more than \$150 million may be loans for operating expense and interest on existing obligations."

No loan will be guaranteed unless, without the guaranty, the carrier is unable to obtain a loan on reasonable terms with a maturity of less than 15 years. The carrier must pay a fee for the guaranty (to cover administrative acts) and must agree "that it will declare no dividends on its capital stock as long as the loan remains unpaid."

Section 7. Applies to agricultural commodities declared as "exempt."

Section 8. "No person in any other commercial enterprise (shall) transport property by motor vehicles in interstate or foreign commerce unless such transportation is incidental to, and in furtherance of, a primary business enterprise (other than transportation) of such person."

An examination of the committee report on H. R. 12832 will disclose some differences with S. 3778. These differences can, of course, be resolved in conference.

While I favor the pending bill and expect to vote for it, it does not have my unqualified approval in every particular. It fails to include some things which I would like to have it include; it includes some provisions which I would prefer to see modified and some which might well be entirely rewritten or excluded altogether. Doubtless every Member of the House would prefer to see the bill amended in some measure, either minor or major. However, in its overall context, it represents a legislative compromise which seems to have won the approval, or at least removed the chief objections, of the employers and employees of the several branches of the transportation industry and the producers, wholesalers and retailers who depend upon the transportation industry for their livelihood. Believing that this legislation will help to solve the financial crisis in the transportation industry, result in more efficient and economic transportation of raw materials and manufactured goods, redound to the benefit of the consuming public and

therefore bolster the entire economy of the Nation, I shall vote for the bill with the hope that further improvements can be made at the next session of Congress.

(Mr. POFF asked and was given permission to revise and extend his remarks.)

Mr. WOLVERTON. Mr. Chairman, I yield such time as he desires to the gentleman from Pennsylvania [Mr. VAN ZANDT].

Mr. VAN ZANDT. Mr. Chairman, the bill before the House today is unquestionably the most important transportation legislation since the Transportation Act of 1940. The chairman of the House Committee on Interstate and Foreign Commerce, together with the able members of his Transportation Subcommittee and the entire committee, deserve much credit for bringing to the Floor of the House a bill which can be supported by every member.

The committee has conducted hearings almost continually on the overall railroad situation since the beginning of the 84th Congress in 1955, and the bill presented here represents a solution to some but not all of the problems of the railroad industry. It gives us an opportunity to strengthen and improve our transportation system by amending the regulatory laws in a number of respects and by extending temporary financial assistance under proper safeguards to enable some of the more distressed carriers to weather the present business recession. The railroads have been suffering from a loss or decline of traffic for a number of years, caused by many factors, and this loss in recent months has been aggravated by the general decline in our national economy.

The report of the House committee contains pertinent figures on the decline in railroad traffic, the reduced operating revenues, reduced working capital, and low employment, all of which confirm the worsening situation in the industry.

No one believes the changes proposed in this bill will cure the ills of the railroads, but they are a minimum of help which must be promptly enacted into law. In the words of the committee:

The committee is convinced, from the hearings and studies it has conducted for sometime now that something must be done, and now must be done quickly in the legislative field, if our common carrier transportation system is to be preserved in a position where it can continue to meet what is required of it. The committee accordingly believes that five changes in existing legislation should be made at this time.

It is not my purpose to discuss each of these five changes. Members of the committee have or will discuss them fully. I want merely to say that I am in complete accord with all of these proposed changes, and shall vote for them.

The bill also directs the ICC to make a study of the passenger train deficit problem and report its recommendations to Congress not later than June 30, 1959. The Senate also proposes to have its Committee on Interstate and Foreign Commerce conduct an investigation and study of various phases of the railroad problems, including commuter transportation, and I am hopeful that something in the way of legislative recommenda-

tions will be forthcoming to enable the railroads to deal with this highly unprofitable service.

As reported by the committee, the bill deals with changes which it deems necessary now for immediate relief. Without detracting from the long and patient work of the committee which has resulted in this bill, I think it is important to point out that many other important recommendations for legislative action were presented during the hearings. Some of these, of course, were beyond the jurisdiction of the committee, and others involve long-range policy matters, but consideration of them by the appropriate committees and the Congress cannot be delayed if our national transportation system, and particularly the railroads, is to continue vigorous and healthy under private ownership.

One recommendation for legislative action proposed by every witness before the House and Senate committee was for repeal of the 3 percent tax on freight transportation and the 10 percent levy on passenger fares. The Senate approved both of these proposals in passing the tax extension bill, and the conferees have agreed to the elimination of the freight tax only. I am extremely gratified that the inequitable 3 percent tax on freight will be repealed effective August 1 and hope that this House will have a chance to vote, at this session of Congress, on the repeal of the 10 percent passenger tax. The railroads of the country suffered a passenger deficit of more than \$725 million last year and certainly a tax originally enacted to discourage travel should long ago have been repealed.

Another recommendation to help the railroads was to permit adequate depreciation allowances. In the field of income taxes, the railroads are at a disadvantage compared with other forms of transportation, in obtaining, free of tax, the funds needed to replace and modernize their equipment and depreciable properties. These funds must come from income which is kept free from income tax through allowance of adequate deductions for depreciation. Three factors have combined to prevent the railroads from obtaining depreciation deductions adequate to enable them to retain the needed earnings. These are inflation, the inordinately long historical service lives of their depreciable properties, and the need of modernization of their plant and equipment.

With the inflation that has taken place, depreciation based on cost cannot generate the free cash needed to replace property purchased in a different economic era. For example, freight cars acquired 20 years ago at a cost of \$2,500 cannot now be replaced for less than \$8,300. The dollars recovered in depreciation charges are worth, in terms of freight car costs, only about one-third of what was spent to acquire the cars. Obviously those cars cannot be replaced with these dollars.

The effects of inflation are aggravated by the excessively long historical service lives of railroad depreciable properties

on which their depreciation rates are computed. The average service life of equipment used by the Internal Revenue Service for depreciation purposes is about 33 years, and the average service life of depreciable roadway properties is in excess of 50 years. In contrast, the airlines and trucks and buses have depreciation rates based on relatively short lives—5 years for aircraft and 7 and 8 years, respectively, for buses and heavy trucks. Inflation accordingly cannot seriously reduce the recovery by airlines and trucklines of their investment in equipment, free of tax, or seriously affect their ability to obtain the funds necessary to replace their equipment with new and better equipment.

If the railroads are to be permitted to retain from their earnings amounts sufficient to enable them to hold their own in the competitive race, they must be allowed substantially greater deductions for depreciation of their plant and equipment in computing their income taxes. Legislative relief in this situation is highly desirable in order to permit the railroads to meet their capital requirements.

Allowing a 20-year life for depreciable property would bring about a reasonable increase in depreciation charges on railroad property and would help railroad management undertake changes in existing property and make additions and betterments that are necessary to meet the modern competitive situation faced by the railroads.

Another proposal for legislative action was the establishment of a construction reserve fund. The House bill contains no such proposal. However, I should point out that the Senate committee determined that such a proposal was reasonable and appropriate, and included in the bill reported to the Senate the establishment of such a fund, not only for the railroads but for motor carriers and other common carriers as well. Because it dealt with taxes and would have amended the Internal Revenue Code, the question of committee jurisdiction arose and the provisions were eliminated from the Senate bill on the floor, without prejudice. It is, nevertheless, an important recommendation in the long-range aid to the railroad industry and should receive prompt consideration by the Senate Finance and House Ways and Means Committees.

The construction reserve deduction contemplates the establishment of a construction fund on the books of a railroad under rules and regulations to be prescribed by the Treasury and the ICC. Amounts deposited in this fund would be deductible by the railroad in computing its Federal income tax. Such amounts could only be used for the acquisition of equipment and other property used in the transportation business, or for the reduction, in whole or in part, of debt incurred in connection with such acquisitions.

The accelerated recovery of their cost by way of the deduction and the coincident reduction of their basis results in a shrinkage of the depreciation reduction in future years, at which time the Government would recover its initial loss by

way of higher taxes which would then have to be paid. By the proposal only costs are recovered and it is not tax forgiveness, but merely tax deferral.

In the testimony on the construction reserve it was pointed out that the rises and falls in our economy are reflected to an exaggerated degree in railroad car loadings and generally orders for equipment go up and down with car loadings. The net result being that when we have a sharp rise in our economy all too frequently it is following in the wake of a slight recession when orders for cars have been sharply curtailed so that the demand for cars is generally past its peak before the necessary equipment become available. The construction reserve fund would very definitely tend to level out the peaks and valleys of railroad orders for equipment. It would permit orderly long-term programing which would be little affected by minor swings in the economy. The collateral effect of such long-range programing would go a long way toward converting many of the railroad suppliers from victims of a feast or famine economy to beneficiaries of an orderly and stable economy with unquestioned resulting benefits in the form of greater efficiency, more stable employment and lower costs which, of course, would redound of the benefit of the railroad purchasers as well as the suppliers themselves.

I have mentioned some of the additional problems which will require legislation. As I have stated, the bill is only a minimum of what the committee feels must be done now. There are many other matters with which I have not dealt and which the Congress must consider in attempting to solve the railroad problem. For example, the bill does not deal with restrictions which bar the railroads from providing service by other modes of transportation. Nor does the bill deal with the desirability of a system of charges to be used against commercial users of transportation facilities provided at Government expense.

These, and many other related matters, are going to have to be resolved if our transportation system is to continue under sound private management.

I approve the results of the committee's efforts as contained in this bill and earnestly urge its passage as a step in the right direction. I sincerely hope that it is only one of a series of steps in attempting to solve the problems of the railroad industry.

(Mr. VAN ZANDT asked and was given permission to revise and extend his remarks.)

Mr. WOLVERTON. Mr. Chairman, I yield such time as he may desire to the gentleman from Maryland [Mr. MILLER].

(Mr. MILLER of Maryland asked and was given permission to revise and extend his remarks.)

Mr. MILLER of Maryland. Mr. Chairman, no one is more desirous than I to give needed help to our hard-pressed railroads, and I am in full support of the purposes of this bill and most of its provisions.

However, one part of this bill will very seriously affect small business operators in the food-processing field, farmers and consumers, without, as I believe, giving

any substantial assistance to any railroad. I refer to the proposed provisions in section 6 which would wipe out the exemption now enjoyed under present law for frozen fruits and vegetables and cleaned wool products. This would disrupt these segments of agricultural production and the injury will fall on the small producers, farmers, and processors.

The amendment I will offer would simply remove the discrimination that I believe would result from picking out a limited number of agricultural products now held to be exempt and arbitrarily saying that hereafter they shall be not exempt while all other products that the courts and the Bureau of Motor Carriers of the ICC have held to be exempt would be continued in that classification under this bill.

My colleagues from the wool-producing areas will, I am sure, give you convincing evidence why the proposed rollback to a nonexempt status on wool products should not be permitted to stay in this bill.

I want to give you a few reasons why frozen fruits, frozen berries, and frozen vegetables should not be changed from an exempt to a nonexempt classification.

The large packers in this country who are freezing fruits and vegetables grown on their own land or purchased from growers have the capital to buy their own trucks and move these products to customers in cities, towns, and even rural areas not served by either the railroads or regulated motor carriers. It is the small freezers who are handling the fruits and vegetables of small growers who cannot afford to maintain their own fleets of trucks who particularly need the flexibility and economy afforded by the exempt motor carrier. There are many small freezing plants serving truck farmers in the Middle Atlantic, Southern, and Western States who would be hard hit if they were limited in their choice of transportation facilities to the railroads and large trucklines. These just do not serve and cannot serve all areas. It would simply mean a contraction of the market outlets for these products with a resulting detriment to both the producers and the consumers and the small-business men in the freezing business.

The United States Department of Agriculture has made a survey throughout the country over the past 2 years to determine the advantages and disadvantages of having frozen poultry, and frozen fruits and vegetables in an exempt category.

The survey on poultry has been completed and the overall advantages of keeping frozen poultry exempt have been fully demonstrated. It was even stated on the floor of the other body several weeks ago that cooked poultry would be exempt.

The USDA survey on frozen fruits and frozen vegetables has been completed in the field, and now the facts are being assembled, and I understand will be ready for publication in about 30 days. The testimony of the USDA spokesman before the House Subcommittee on Trans-

portation and Communications on April 23, 1958, was in part as follows:

Although the survey with respect to transportation of frozen fruits and vegetables is not complete and although there are some differences disclosed in the pattern of use of various types of carriers as compared with the findings in the poultry survey, both surveys reveal many of the same advantages experienced by processors in the utilization of exempt motor carriers. The service advantages disclosed are quite pertinent, perhaps even more so than the rate advantages which have resulted from the exemption. Although the experiences of different processors in different localities vary, it is significant that many have found that exempt carriers are more willing than regulated carriers to haul LTL shipments, to serve out-of-the-way markets, to serve distant markets, and to make multiple pickups and stopoffs.

Why take this hasty action, when all the facts are not available to the Congress, and since such facts as have been developed on a nationwide basis reflect that the advantages of keeping frozen fruits, berries, and vegetables exempt far outweigh any benefits which may accrue to arbitrarily making them fully regulated.

It is argued that Congress in 1935 when it passed the Motor Carrier Act did not intend that the agricultural commodities exemption should include frozen fruits, frozen vegetables, and many other products in highly processed form which the Courts have held to be agricultural products and hence exempt. This argument has no validity so far as I am concerned. The processing of many of these products was unknown in 1935. It is not a question of what products Congress intended in 1935 to be covered under 1935 conditions. The question today is what products under 1958 conditions should be regarded as agricultural commodities and hence be free to move with uneconomic restraints from points of production into channels of consumption for the benefit of all—producers, consumers, and those who serve them.

It is time to look at this problem from a broad national standpoint and to apply the philosophy of less regulation and true competition to the movement of frozen fruits, frozen vegetables, and frozen berries as is applied to fishery products in the same paragraph of this section of the bill.

The proposal to roll back to rate and route regulation the truck movement of frozen fruits, frozen vegetables, frozen berries, and a few other agricultural products is wholly inconsistent with the other provisions in this bill which would give to the railroads, trucks, and other regulated carriers greater freedom to set rates in line with the cost of rendering the service. Railroads and regulated motor carriers can compete for the traffic on exempt commodities and they will have greater freedom than ever before to do so under section 5 of this bill.

The truck farmers throughout the country producing fruits, vegetables, and berries are widely scattered in many States. For competitive reasons some of the businesses handling fruits and vegetables in fresh form apparently do not want the advantages of exemption to

apply to the movement of fruits and vegetables in frozen form. The farmer and consumer will benefit most when their movement is subject to a minimum of regulatory restraints regardless of the form in which they move.

I therefore urge your support of my amendment.

Mr. WOLVERTON. Mr. Chairman, I yield such time as he may desire to the gentleman from Pennsylvania [Mr. CURTIN].

Mr. CURTIN. Mr. Chairman, I commend the committee for the very fine bill they have brought out today. It is very necessary legislation to help and preserve a vital industry. I wish to associate myself with this legislation and urge its speedy passage.

(Mr. CURTIN asked and was given permission to revise and extend his remarks.)

Mr. WOLVERTON. Mr. Chairman, I yield such time as he may desire to the gentleman from Illinois [Mr. VURSELL].

(Mr. VURSELL asked and was given permission to revise and extend his remarks.)

Mr. VURSELL. Mr. Chairman, I have been interested in this type of legislation being written into the laws of our Nation for quite some time. I had the opportunity to sit down with representatives of the Illinois Central last December, and we discussed many phases of legislation that the railroads must have, because they are so important to the economy of the country as well as to the defense of our country. Now, since we had that conference, which was some 3 or 4 months ago there have been laid off probably 1,500 railroadmen, splendid citizens, of my congressional district because of the decline in the railroad transportation field generally. The Government now has come in to help, but the success of the railroads in this country in the future, with the guidelines of this legislation, will still largely depend upon railroad management and the cooperation of those who work with the railroads, the railroad employees. Now that we have the Federal Government in as a partner we are hopeful that we can rescue this great transportation system that is so necessary to the economy of our country.

Mr. Chairman, the railroads have seen their total earnings diminish over \$700 million over the past 12 months. Thousands upon thousands of railroadmen during the last 2 years have been laid off with little hope of ever being returned to their jobs; in fact, over 120,000 have suffered this fate.

The action taken today when we pass this bill, which we should by an overwhelming majority, we sincerely hope with the cooperation of railroad management, which is absolutely necessary, should open up a bright future for this great industry, that more than any other has helped to pioneer the development of this country from coast to coast, will again enter into a long and prosperous era.

As far as railroad employees are concerned, this legislation is a mass back to work for the railroadmen of Amer-

ica, and it will strengthen the economy of the Nation, and will make a tremendous contribution to its security if we should ever again be plunged into a military conflict.

Mr. WOLVERTON. Mr. Chairman, in concluding this debate I wish to commend the Chairman of the Committee on Interstate and Foreign Commerce for the splendid presentation he has made of the need and purpose of this legislation and the remedy it provides for some of the problems of our railroads. The able manner in which he has explained the provisions of the bill, and the care and patience he has shown in the preparation of this bill by the committee is characteristic of the gentleman at all times. It is indeed a pleasure to serve with him in the work of the great committee over which he presides in such an able and distinguished manner.

There has been no legislation that has come before this Congress that is more necessary or that can be more helpful in strengthening one of our most important and necessary industries. The condition of our railroads is desperate. This fact is recognized by all. As an illustration of the desperate condition that faces our railroads I wish to refer to the case of the Baltimore & Ohio Railroad.

The Baltimore & Ohio Railroad, after 68 years of operation, has abandoned its passenger service between New York and Washington because it no longer can cope with a \$5 million annual loss.

The B. & O. situation is illustrative of a condition affecting virtually every rail carrier in the country and unless steps are taken to aid the railroads in their plight, they will be forced out of business.

The Association of American Railroads points out the carriers' cash position is critical. Their net working capital on February 1 dropped to \$397 million from a high of \$938 million in 1955. Net operating income dropped 14 percent under 1956 and returned only 3½ percent on net investment. Revenue freight carloadings last year totaled 35,500,000 cars. This was 6.2 percent less than in 1956.

Passenger traffic showed pronounced decreases and there is no indication the trend will be checked. Railroad employment dropped under the million mark for the first time since 1939—to 840,000—while payrolls reached a near-peak of \$5.4 billion. Capital expenditures, despite falling earnings, totaled nearly \$1.4 billion—the second highest on record.

This is a dismal picture of an industry which is vital to the Nation's continued growth and to the country's security. During past wars, the railroads performed a job that no other carrier could, and if hostilities should ever break out again, the country would be crippled without a healthy rail transport system.

What has brought the railroads to their present, grim predicament? In large part it is due to Government policies which are regulating railroads out of business. So restrictive are regulations by Federal and State agencies that

railroads are not permitted to take the necessary steps to put their affairs in sound fiscal shape.

They cannot change their rates to meet rising costs without permission from some regulatory body. They cannot curtail services despite red ink without getting approval. They cannot follow sound business principles to meet competition from other forms of transportation and do not have the freedom to make competitive rate and service adjustments.

Here is a classic example of an industry that is being regulated to death. On top of the restrictions imposed by governmental regulating agencies are high excise taxes which have run 3 percent for freight and 10 percent for passenger fares. It is gratifying that the House by action today has eliminated the 3 percent freight tax. I hope and expect it will have the approval of the President.

This may be a temporary palliative but it in no way gets to the core of the difficulty which is to allow the railroads to operate on sound business principles by eliminating the regulations that are strangling them.

I trust the bill will have the enthusiastic support of the House.

Mr. HARRIS. Mr. Chairman, I yield 2 minutes to the gentleman from West Virginia [Mr. STAGGERS].

Mr. STAGGERS. Mr. Chairman, I want to reemphasize what has been said several times about the importance of this bill, because every Member of this House has some transportation system crisscrossing his district, so that the bill does affect everyone. It is important, too, because it should give a great shot in the arm to our economy at a time when it is desperately in need of it.

There is one question I would like to ask the chairman in order to clarify a provision of the bill, for the RECORD, so that there will be no misinterpretation of the intent of the bill later on. I refer to paragraph (2), section 4, lines 8 to 10 of the bill, which reads:

(2) The provisions of this section shall not apply to the operations of or services performed by any carrier by railroad on a line of railroad located wholly within a single State.

The question I would like to direct to the chairman is, Regardless whether a railroad has other lines in other States that crisscross a State perhaps in interstate commerce, if it has a line in the State that starts and stops in the State, this bill would not affect that part?

Mr. HARRIS. The gentleman is correct. Any reduction of services would have to come under the jurisdiction and at the decision of the State commission.

Mr. STAGGERS. I have an amendment which I shall offer at the proper time in regard to one section of the bill. I thank the gentleman.

Mr. HARRIS. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. WIER].

Mr. WIER. Mr. Chairman, I want to follow up the question just asked by the gentleman from West Virginia [Mr. STAGGERS]. Each State has a utility commission. In our State it is the railroad and warehouse commission. Does

the gentleman's answer to the gentleman from West Virginia mean that there will be nothing taken away from the authority of the Minnesota Railroad and Warehouse Commission in its regulation of the railroads operating in our State, going in and out, interstate or intrastate, under this legislation?

Mr. HARRIS. No; the gentleman has not correctly stated the situation. The authority of the local State commissions is not subject to the Congress, as the gentleman knows, on matters of intrastate commerce. The Congress has never preempted that field from the States. The State commissions have had this authority all the time. We do not invade that authority, with one exception, and that is with reference to the interstate operation of services wherever that interstate service is affected.

Mr. WIER. Then the gentleman's answer is that there is certain authority taken from the commission.

Mr. HARRIS. Only to the extent that I have explained.

Mr. WIER. That is enough.

Mr. HARRIS. It may be too much in some cases.

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Mississippi.

Mr. WHITTEN. I had expected to support this bill, but section 4, in my opinion, goes too far. In my own State we have very few big cities. The big cities of my region are just over the line in adjoining States; for instance, Memphis, Tenn., Mobile, Ala., and New Orleans, La. This means that practically all the railroad service in my State originates just over the line; that is, the starting point of the trains is there. It strikes me that the language of section 4 would put practically the whole transportation operation in Mississippi in the Interstate Commerce Commission and would leave out any weight that the local commission would have in determining public necessity or public convenience on existing service. Is that correct?

Mr. HARRIS. No; the gentleman is not correct at all. I have tried to explain on several occasions here emphatically what the situation is today, as I have just done to the gentleman from West Virginia [Mr. STAGGERS], the gentleman from Minnesota [Mr. WIER], and others. If there is an intrastate operation within the gentleman's State, then the intention of this States rights provision is to leave that within the jurisdiction of the commission of that State. If there is a branch line that belongs to an interstate line, which has a starting point within the State and ends within the State, that service is left with the State corporation commission.

Mr. WHITTEN. I understand that, but it still does not answer the question I was presenting here, that in some States, of which mine is one, by reason of geographical location practically all of the service is interstate and would come within the provisions of this bill, so that any State constitution or State law or ruling by the local commission could be set aside by the Interstate Com-

merce Commission, under the terms of this bill.

Mr. HARRIS. The carrier could go to the Interstate Commerce Commission, under the terms of this bill.

Mr. WHITTEN. And bypass completely the determination of public interest by the State commission. In the history of railroad transportation in this country, public convenience and necessity and the public interest have been paramount and a major factor. It strikes me that section 4 means we are going another way now, and that the public interest and public welfare as determined by the State commissions are left completely out, without, in my opinion, providing proper safeguards or yardsticks for handling by the Interstate Commerce Commission.

Mr. HARRIS. The gentleman of course must remember that the Interstate Commerce Commission must make its decision on public convenience and necessity and the interest of the public. It also must make its decision based on the burden on interstate commerce. No State, as a matter of fact, throughout the history of the Interstate Commerce Act, has had any authority whatsoever to impose any decision within that State on any matter that becomes a burden on interstate commerce. That still is the law and will remain the law under the commerce clause.

Mr. Chairman, I yield such time as he may desire to the gentleman from Pennsylvania [Mr. RHODES].

Mr. RHODES of Pennsylvania. Mr. Chairman, I rise in support of H. R. 12832, reported by the Interstate and Foreign Commerce Committee. This bill is the result of several years of study of the complex problems in the surface transportation field.

As our population has grown, the demand of our Nation for various transportation services has increased proportionately. In the past 20 years the ton-miles of intercity freight handled by railroads has doubled until today it totals about 650 billion ton-miles a year. Motor vehicle ton-miles are 240 billion annually, an increase of four times that of 20 years ago.

It is obvious that these increasing demands have created vast new problems in the transportation industry, working a particular hardship on the railroads. Rail facilities adequate when established fifty or a hundred years ago are now hopelessly out of date and incapable of meeting the growing demands for transportation services. Costly efforts have been made to modernize existing rail facilities and service, but the economic problems of the railroads continue to multiply.

Mr. Chairman, we must give serious consideration to the importance of the rail industry in our overall economy and in our national defense effort. According to the report of the Surface Transportation Subcommittee of the Senate Interstate and Foreign Commerce Committee, during World War II more than 90 percent of all military freight traffic and 97 percent of organized military passenger traffic were transported by railroads.

In the committee report on H. R. 12832, there is a well-documented analysis of the deteriorating financial plight of the Nation's railroads, affecting particularly eastern railroads whose passenger service operations constitute a larger proportionate percentage of their total service.

The decline in rail traffic, operating revenues, and net income has resulted in sharp layoffs of railroad workers. Rail employment has dropped 180,000 since May 1957, 60,000 layoffs having taken place since January of this year. Present railroad employment is at its lowest point in 60 years. This has brought suffering and economic hardship to these railroad employees and their families. Many of those laid off in my own district have 20 or 25 years of seniority and are in the middle-age bracket, which is finding it so difficult to secure even part-time work in the present recession.

The financial assistance to railroads provided for in this legislation in the form of federally guaranteed loans will make possible acquisition and construction of modern equipment and facilities to revitalize the rail-transportation services furnished by the railroad industry. These funds will be used to finance many millions of dollars worth of capital-expenditure programs, stimulating related industries which supply rail equipment. It will make possible the reemployment of thousands of rail workers and promote the public interest in many other ways.

Mr. Chairman, I support this aid program for the railroad industry because I am convinced that it is necessary to its survival, so vitally necessary in the public interest. No question has been seriously raised about the Federal aid involved in this loan-guaranty program.

Federal aid has been made available in many situations where it was clearly demonstrated that a serious problem existed which could not be met by any other means. I favor this help for the rail industry, and I trust that equal support will be forthcoming for the important Federal-aid program for areas of the country suffering from severe economic distress, as is provided for in S. 3683, the Area Redevelopment Act ordered reported this morning by the House Banking and Currency Committee.

The distress in the railroad industry has been aggravated by the present recession. This is good antirecession legislation. It will not only be helpful to the railroads but to railroad employees and to the entire economy of the Nation. It is legislation that deserves bipartisan support and should be enacted without delay.

(Mr. RHODES of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. HARRIS. Mr. Chairman, I yield such time as he may desire to the gentleman from Florida [Mr. SIKES].

[Mr. SIKES addressed the Committee. His remarks will appear hereafter in the Appendix.]

(Mr. SIKES asked and was given permission to revise and extend his remarks.)

Mr. HARRIS. Mr. Chairman, I ask unanimous consent that the gentleman from Ohio [Mr. ASHLEY] be permitted to extend his remarks at this point in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. ASHLEY. Mr. Chairman, there can be no question whatever of the necessity of directing a multipronged attack on the economic and financial ills of our ailing and rapidly deteriorating railroad industry.

I have been gratified with the priority considerations which the House Interstate and Foreign Commerce Committee has accorded this critically needed legislation and the extraordinary dispatch with which this Committee has reported out what I believe to be, on the whole, a most constructive measure.

Lengthy hearings, consuming thousands of pages of testimony, have been held by Committees of both the House and the Senate, in the course of which ample evidence has been adduced to confirm that our railroads—a once powerful and malevolent monopoly—are now in an exceedingly precarious financial condition, and that declining freight traffic and heavy losses on passenger service, plus strangling regulations, have combined to bring them to the brink of bankruptcy. Sufficient evidence has likewise been presented to establish beyond a doubt that unless the Congress and the Federal Government act to aid in the resolution of these critical problems, many railroads will be eliminated or the Government ultimately forced to assume their operation—a prospect wholly incompatible with our concept of free enterprise.

If nothing else, these hearings have performed an invaluable service in that they have focused public attention on the grievous problems of our Nation's railroads and awakened Congress and the American people to the importance of an efficient railroad system to our national economy in time of peace and to our national defense in time of war.

So much so, in fact, that I have been besieged with letters from people in all walks of life—businessmen, housewives, railroad workers, and stockholders—all emphasizing the importance of our railroads to our economy in general and to the economic prosperity of Toledo in particular.

It has been estimated that over half of every dollar which the railroads take in goes for payment of wages and employee benefits, and that another 20 cents of every dollar goes to purchase equipment which, in turn, creates jobs and generates business. But as the railroads' economic condition has deteriorated, retrenchment steps have been taken, causing layoffs and decreasing consumer purchases, which have accelerated beyond any question of a doubt the downward trend of our economy.

The situation in Toledo, Ohio, illustrates graphically the worsening plight of our railroad industry. Toledo is served by 13 railroads, gathering and distributing the freight which moves

through a port which is third among the Great Lakes and twelfth in the United States, and also serving the 800 manufacturing and industrial plants in the Toledo area which employ more than 100,000 people. The Toledo port ships more soft coal than any other port in the world and nearly half of the coal tonnage of all the Great Lakes ports combined is handled at Toledo. It is also one of the leading ports through which iron ore, lumber, and grain are shipped. Large tonnages of petroleum, cement, wood pulp, and package freight also move through our port. The Chesapeake and Ohio Railway has slips for 16 freighters at one time with a daily capacity of 4,500 cars. The Baltimore & Ohio Lake Front Dock and Railroad Terminal has a capacity of 5,500 cars.

Among the most important industries served by the 13 railroads at Toledo are those which produce machinery, motor-vehicle equipment, fabricated metals, primary metals, stone, clay, and glass products. Many of the articles of equipment used by the railroad industry are manufactured in Toledo plants. Obviously, any decrease in railroad purchases of articles manufactured in the Toledo area affects the people employed in these industries, just as a drop in volume of freight carried by railroads through Toledo directly affects employment in the railroad industry and, eventually, in the industries which supply railroad equipment.

The outstanding rail travel through Toledo is the moving of coal and ore between the city and areas of the South, grain from the Southwest, steel from the Cleveland-Pittsburgh area, and automotive parts and accessories to and from the Detroit area. The city is a part of the rail trunkline district extending from Chicago and St. Louis on the west, to Baltimore, Philadelphia, New York, and Boston on the east, and has through rail connections with all these points. The railroads have a capacity of 6,300 cars in the various marshaling yards in Toledo, making the city one of the largest centers in the country. As of July 1953, railroads in Lucas County, in which Toledo is located, employed 8,077 persons. As of July 2, 1957, there were 5,817 employed and today the total has dropped to 4,830—a decrease of 16.1 percent during the last 12 months. In 1953 the average compensation per railroad employee was \$4,415; in 1957 the average compensation per railroad employee was \$5,434 per annum, as reported by the Association of American Railroads.

Comparative figures for the amount of freight and passengers handled in and out of Toledo further attest to the economic ills which in recent years have become a disease of alarming proportion. Carload and less than carload tonnage in and out of Toledo have declined steadily as, in recent year, has the dollar volume of ticket sales in passenger traffic.

I am informed that railroad traffic over the United States is down 16 to 17 percent from the first 5 months of a year ago and that total traffic for lines in the eastern United States area is down 23 to 26 percent.

This desperate situation clearly did not develop overnight—nor is there only one contributing factor to its development. Increased competition from air and highway carriers has skimmed off the most profitable freight and passenger business. There are many who feel that with the application of a measure of ingenuity and initiative and a more zealous cultivation of the public goodwill, the railroads might not be in their present predicament. Be that as it may, the very fact that they have been able to withstand this increased competition suggests that there is a vital place for a modern national rail transport system, to handle needs which cannot be met by air and highway competition—as well as to compete with these systems in a free-enterprise economy.

Are the railroads worth saving? If the test of efficiency-of-performance and essentiality-of-function are applied to our railroad system, then the answer must clearly be in the affirmative. The American system, despite the ascendancy of the automobile and airplane continues to be the backbone of our Nation's transportation system both in peacetime and in time of war. For the mass transportation of men and materials to meet our Nation's defense requirements, no other form of transportation approaches the railroads for dependability, efficiency and economy. During World War II the American railroads were called on to move 90 percent of all military freight and 97 percent of all organized troop movements. They were called on for this job not only because of their bulk-carrying capacity, but also because they can move so much so far with such economical use of manpower and fuel.

In times of peace our railroads are the very lifelines of our domestic commerce. No other method of transport can possibly accommodate the shipping requirements of American industry, the cross-country movement of heavy goods such as steel, aluminum, and glass or the rapid and safe transport of perishables such as fruits, vegetables, and seafood, as quickly, economically and dependably as our railroad freight cars. From the production stage to the delivery of the finished product our railroads are constantly called upon to link supply with demand, the two propelling forces of our free-enterprise economy. In short our railroads are indispensable to the industrial development and progress of our Nation and must be saved.

How then can our railroads be saved and what can the Federal Government do to aid and abet their economic recovery? I recognize, of course, that there is no economic magic whereby all the troubles of the railroad industry can be eliminated. I do believe, however, that the bill reported by the House Interstate and Foreign Commerce Committee makes a number of positive proposals to help our railroads achieve economic stability and to place them on a more equitable footing with competing carriers. By providing Federal guaranties of private loans to railroads for capital expenditures as well as operating expenditures the bill before us will enable the

railroads to modernize their equipment, much of which is woefully obsolete, and to improve their service which has deteriorated appreciably in recent years. Secondly, by giving the carriers somewhat more leeway and by limiting the authority of the ICC in ratemaking, this bill will enable the railroads more equitably to meet the rates of competing forms of transportation and allow them to exercise their inherent advantages consistent with the objectives of a sound national transportation policy.

Thus by providing our railroads with working capital and giving them more freedom in the establishment of rates I firmly believe this bill will go far in the direction of alleviating the distressed situation in which our railroads find themselves and restoring them to economic stability and financial solvency.

Mr. JONES of Missouri. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Missouri.

Mr. JONES of Missouri. The question asked by the gentleman from Mississippi bordered on a question I wanted to ask the gentleman, but I still do not have the answer clearly in mind. The Frisco Railroad runs a train from St. Louis, Mo., through Missouri and Arkansas, and it terminates at Memphis, Tenn. Under the present regulations, before that service can be discontinued they must have the approval of the Missouri Public Service Commission. Is that correct?

Mr. HARRIS. And the Arkansas Commission and the Tennessee Commission.

Mr. JONES of Missouri. All of the commissions.

Mr. HARRIS. Yes.

Mr. JONES of Missouri. Under this bill that service could be discontinued with the approval of the Interstate Commerce Commission without the State public service commissions having anything to say about it. Is that right?

Mr. HARRIS. Insofar as the abandonment of the line itself is concerned, the Interstate Commerce Commission has the authority and jurisdiction to determine that today. Insofar as certain services performed by that line are concerned, the State commissions have authority to determine with reference to the adjustment or abandonment of such services.

Mr. JONES of Missouri. Of course, they are not going to take up the tracks, but what I am fearful of here is if we take away from the States the right to protect the service of the people living in Missouri because that train crosses the State line, I think we are putting ourselves in the position of losing the passenger and mail service which we have in the State of Missouri. I do not want that to happen.

Mr. HARRIS. I can say to the gentleman there has been no problem in the State of Missouri with reference to the abandonment of service by any carrier.

Mr. JONES of Missouri. Oh, yes; there is, I beg to differ with the gentleman because we have had to have hear-

ings from time to time, to prevent the discontinuance of essential service.

Mr. HARRIS. I know that you have had to have hearings from time to time.

Mr. JONES of Missouri. And also when the public service commission was in the position of abandoning or discontinuing or approving the discontinuance of a service, we have had hearings and we kept the service going. I am afraid we could not do that if we had to bring the people up here to Washington before the Interstate Commerce Commission to do that. When an amendment is offered, and I understand such an amendment is to be offered to protect this authority of the public service commissions in the various States I will vote for that amendment. I do not want to see us put in the position of having the Interstate Commerce Commission saying we cannot have a service within the State of Missouri. I hope such an amendment will be adopted.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HARRIS. Mr. Chairman, I yield to the gentleman from Missouri [Mr. BROWN].

Mr. BROWN of Missouri. Mr. Chairman, we in southwest Missouri have a vital interest in this legislation. Railroading is an important business in our section. Many of our finest citizens depend on railroading for their livelihood.

For some time now, we have been worried about the future of railroading. Almost every month, we see more and more men laid off. Every time we turn around, it seems that freight carloadings are down 19 percent, 21 percent, 23 percent, or railroad earnings are dangerously down. All these indexes hit us where it hurts. In the Ozarks the butcher, the baker, the candlestick maker feel the impact.

Now we know that most of this depressed situation can be corrected only by a general upturn in the economy. The future of railroading in a booming expanding America is far brighter than in an America standing still or going backward.

Confidence, growth, expansion, prosperity are the real goals we seek; and nothing short of these goals will really solve the problems of railroading and other forms of transportation.

For transportation cannot be prosperous if shippers are not shipping, and shippers do not ship when customers do not buy. Buyers cannot buy unless they have jobs or businesses or farms making money with which to buy. We are all interdependent. And balance is the key to a busy, booming economy.

But the common carriers in this country have some specialized problems in which government can help, because government actions and decisions have caused some of the problems.

Government caused the excise tax on freight during the Korean war. Earlier today we acted to remove that tax. It was long overdue. I wish we could remove some other excise taxes. But the House is not in a mood to do it. The executive branch is not in a mood to do it. So, that is that, for now. But I hope not for long.

In this bill, the Congress seeks to spell out some policies that it enacted several years back that have possibly been misinterpreted by the Interstate Commerce Commission and the courts. Obviously, these misinterpretations or broad interpretations have caused common carriers some problems. Government did it. Only Government can correct it. In this bill, we try to do just that.

In one particular, this bill provides a new field of Government endeavor in respect to railroading—the guaranty of railroad financing. The very fact that such a provision is in this bill is evidence of the seriousness of the present emergency situation in railroading.

Not too long ago, the railroads would not have accepted such assistance much less have sought it. Everyone knows that individuals and companies would rather rely on their own resources than turn to Government for guaranteed loans or grants. The redtape alone in Government loans is enough to discourage a borrower. I am confident that the railroads have explored every possible avenue of financing without result or they would not want the Federal Government guaranteeing capital loans.

Having exhausted every other source, they now must turn to their Government with the problem. The Government has an interest, the national interest. Defense, the general welfare, interstate commerce, the good of America demand a strong railroad industry.

Even competitive carriers recognize the fundamental service that railroading performs. And no thinking person could visualize a modern America without railroads. Just the burden on the highways alone, if there were no railroads, would be staggering.

Now, presented with a capital modernization problem without funds what do we do? In other countries, governments have taken over railroads and operate them through bureaucracies. Certainly, America does not want to do that. Risking some guaranteed loans is better than bureaucratic operation.

Let us try to prop up the private operations during this emergency and then proceed to get this economy booming again, so they will have to rely on Government as little as possible.

This legislation will help the railroads, if America follows through and gets this country on a sound economic basis. But without accompanying corrections and expansion this will be doctoring symptoms instead of curing disease.

Government alone cannot correct our economic ills. Business must show some statesmanship, too. All industries must get back to risk-taking again, lowering factory prices to get more sales. Labor leaders must assume their responsibilities and seek only those wage increases which are justifiable. The national need must come first in these crucial times.

Government can help straighten out the farm purchasing power situation, because Government is setting farm prices, wages, and profits. Only Government can correct the mistakes now being made by the Department of Agriculture.

Government can help get small business on a sounder footing, because Gov-

ernment tax structures are restrictive and the monetary setup in this country does not provide adequate sources of capital for small business. Only Government can improve this situation.

Government can stimulate construction of off-street parking, urban development, slum clearing, nursing homes, community development. All this can add to our growth, expansion and purchasing power. Only governments can take action in this field, local, State, and Federal Government.

But without courage, without bold decisive action, we may lag along here for 2 or 3 years, not growing, not expanding, not booming. In normal times, these 2 or 3 years might not be crucial. But in these days when we are threatened by destruction, when the common defense demands 16 to 20 percent of the total gross national product, we can't waste 2 or 3 years. We might never recoup the loss.

I have some misgivings about some of the provisions in this bill. I shall listen intently to every amendment offered; and I am sure we will adopt some of them.

But let us pass this bill. It will not work miracles by itself. Only if accompanied by companionate action will it get the results we hope for.

Let us get America booming in high gear again. That is the real answer to the railroad problem.

Mr. HARRIS. Mr. Chairman, I have no further requests for time and I suggest that the Clerk read.

The Clerk read as follows:

Be it enacted, etc., That this act may be cited as the "Transportation Act of 1958."
AMENDMENT TO INTERSTATE COMMERCE ACT,
RELATING TO LOAN GUARANTIES

SEC. 2. The Interstate Commerce Act, as amended, is amended by inserting immediately after part IV thereof the following new part:

"PART V
"Purpose

"SEC. 501. It is the purpose of this part to provide for assistance to common carriers by railroad subject to this act to aid them in acquiring, constructing, or maintaining facilities and equipment for such purposes, and in such a manner, as to encourage the employment of labor and to foster the preservation and development of a national transportation system adequate to meet the needs of the commerce of the United States, of the postal service, and of the national defense.

"Definitions

"SEC. 502. For the purposes of this part—
"(a) The term 'Commission' means the Interstate Commerce Commission.

"(b) The term 'additions and betterments or other capital expenditures' means expenditures for the acquisition or construction of property used in transportation service, chargeable to the road, property, or equipment investment accounts, in the Uniform System of Accounts prescribed by the Interstate Commerce Commission.

"(c) The term 'expenditures for maintenance of property' means expenditures for labor, materials, and other costs incurred in maintaining, repairing, or renewing equipment, road, or property used in transportation service chargeable to operating expenses in accordance with the Uniform System of Accounts prescribed by the Commission.

"Loan guaranties"

"SEC. 503. In order to carry out the purpose declared in section 501, the Commission, upon terms and conditions prescribed by it and consistent with the provisions of this part, may guarantee in whole or in part any public or private financing institution, or trustee under a trust indenture or agreement for the benefit of the holders of any securities issued thereunder, by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan, discount, or advance, or on any commitment in connection therewith, which may be made, or which may have been made, for the purpose of aiding any common carrier by railroad subject to this act in the financing or refinancing (1) of additions and betterments or other capital expenditures, made after January 1, 1957, or to reimburse the carrier for expenditures made from its own funds for such additions and betterments or other capital expenditures, or (2) of expenditures for the maintenance of property.

"Limitations"

"SEC. 504. (a) No guaranty shall be made under section 503—

"(1) Unless the Commission is of the opinion that without such guaranty, in the amount thereof, the carrier would be unable to obtain necessary funds, on reasonable terms, for the purposes for which the loan is sought.

"(2) If the loan involved is at a rate of interest which, in the judgment of the Commission, is unreasonably high, or if the terms of such loan permit full repayment more than 15 years after the date thereof.

"(3) For any loan for expenditures for maintenance of property, if the principal of such loan, or the total of such principal and the unpaid principal of all other loans to the common carrier concerned for expenditures for maintenance of property guaranteed under this act, exceeds 50 percent of the aggregate amount charged in the accounts of said carrier for expenditures for maintenance of property during the calendar year next preceding the date of the application for such guaranty.

"(b) It shall be unlawful for any common carrier by railroad subject to this act to declare any dividend on its preferred or common stock while there is any principal or interest remaining unpaid on any loan to such carrier made for the purpose of financing or refinancing expenditures for maintenance of property of such carrier, and guaranteed under this part.

"Modifications"

"SEC. 505. The Commission may consent to the modification of the provisions as to rate of interest, time or payment of interest or principal, security, if any, or other terms and conditions of any guaranty which it shall have entered into pursuant to this part, or the renewal or extension of any such guaranty, whenever the Commission shall determine it to be equitable to do so.

"Payment of guaranties; action to recover payments made"

"SEC. 506. (a) Payments required to be made as a consequence of any guaranty by the Commission made under this part shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for the purpose of carrying out the provisions of this part.

"(b) In the event of any default on any such guaranteed loan, and payment in accordance with the guaranty by the United States, the Attorney General shall take such action as may be appropriate to recover the amount of such payments, with interest, from the defaulting carrier, carriers, or other persons liable therefor.

"Guaranty fees"

"SEC. 507. The Commission shall prescribe and collect a guaranty fee in connection with each loan guaranteed under this part. Such fees shall not exceed such amounts as the Commission estimates to be necessary to cover the administrative costs of carrying out the provisions of this part. Sums realized from such fees shall be deposited in the Treasury as miscellaneous receipts.

"Assistance of departments or other agencies"

"SEC. 508. (a) To permit it to make use of such expert advice and services as it may require in carrying out the provisions of this part, the Commission may use available services and facilities of departments and other agencies and instrumentalities of the Government, with their consent and on a reimbursable basis.

"(b) Departments, agencies, and instrumentalities of the Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this part.

"Administrative expenses"

"SEC. 509. Administrative expenses under this part shall be paid from appropriations made to the Commission for administrative expenses.

"Termination of authority"

"SEC. 510. The authority granted by this part shall terminate at the close of March 31, 1961, except that its provisions shall remain in effect thereafter for the purposes of guaranties made by the Commission prior to that time."

AMENDMENTS TO SECTION 1 OF INTERSTATE COMMERCE ACT

SEC. 3. Section 1 of the Interstate Commerce Act, as amended, is amended (1) by inserting in subparagraph (a) of paragraph (2) thereof, after the word "aforesaid" and before the semicolon following that word, a comma and the words "except as otherwise provided in this part" and (2) by striking out the period at the end of the proviso in subparagraph (a) of paragraph (17) thereof and inserting in lieu thereof the following: "and except as otherwise provided in this part."

NEW SECTION 13A OF INTERSTATE COMMERCE ACT

SEC. 4. The Interstate Commerce Act, as amended, is amended by inserting after section 13 thereof a new section 13a as follows: "*Discontinuance or change of certain operations or services*

"SEC. 13a. (1) A carrier or carriers subject to this part, if their rights with respect to the discontinuance or change, in whole or in part, of the operation or service of any train or ferry engaged in the transportation of passengers or property in interstate, foreign and intrastate commerce, or any of them, or of the operation or service of any station, depot or other facility where passengers or property are received for transportation in interstate, foreign and intrastate commerce, or any of them, are subject to any provision of the constitution or statutes of any State or any regulation or order of (or are the subject of any proceeding pending before) any court or an administrative or regulatory agency of any State, may, but shall not be required to, file with the Commission, mail to the Governor of each State in which such train, ferry, station, depot or other facility is operated, and post in every station, depot, or other facility directly affected served thereby, notice at least 30 days in advance of any such proposed discontinuance or change. The carrier or carriers filing such notice may discontinue or change any such operation, or service pursuant to such notice except as otherwise ordered by the Commission pursuant to this section, the laws or constitution of any State, or the decision or order of, or the pendency

of any proceeding before any court or State authority to the contrary notwithstanding. Upon the filing of such notice the Commission shall have authority during said 30 days' notice period, either upon complaint or upon its own initiative without complaint, to enter upon an investigation of the proposed discontinuance or change. Upon the institution of such investigation, the Commission, by order served upon the carrier or carriers affected thereby at least 10 days prior to the day on which such discontinuance or change would otherwise become effective, may require such train, ferry, station, depot, or other facility to be continued in operation or service, in whole or in part, pending hearing and decision in such investigation, but not for a longer period than 4 months beyond the date when such discontinuance or change would otherwise have become effective. If, after hearing in such investigation, whether concluded before or after such discontinuance or change has become effective, the Commission finds that the operation or service of such train, ferry, station, depot, or other facility is required by public convenience and necessity and that such operation or service will not result in a net loss therefrom to the carrier or carriers and will not otherwise unduly burden interstate or foreign commerce, the Commission may by order require the continuance or restoration of operation or service of such train, ferry, station, depot, or other facility, in whole or in part, for a period not to exceed 1 year from the date of such order. The provisions of this section shall not supersede the laws of any State or the orders or regulations of any administrative or regulatory body of any State applicable to such discontinuance or change unless notice as in this section provided is filed with the Commission. On the expiration of an order by the Commission after such investigation requiring the continuance or restoration of operation or service, the jurisdiction of any State as to such discontinuance or change shall no longer be superseded unless the procedure provided by this section shall again be invoked by the carrier or carriers.

"(2) The provisions of this section shall not apply to the operations or services performed by any carrier by railroad on a line of railroad located wholly within a single State.

"(3) The Commission, in cooperation with State utilities commissions, shall make a study of the passenger train deficit problem and report thereon to the Congress not later than June 30, 1959, together with such recommendations as the Commission deems to be necessary or appropriate."

AMENDMENT TO SECTION 15A OF THE INTERSTATE COMMERCE ACT

SEC. 5. Section 15a of the Interstate Commerce Act, as amended, is amended by inserting after paragraph (2) thereof a new paragraph (3) as follows:

"(3) In a proceeding involving competition between carriers of different modes of transportation, subject to this act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this act."

AMENDMENT TO SECTION 203 (B) OF INTERSTATE COMMERCE ACT

SEC. 6. (a) Clause (6) of subsection (b) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a colon and the following: "Provided, That the words 'property consisting of

ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)' as used herein shall include property shown as 'Exempt' in the 'Commodity List' incorporated in ruling No. 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as 'Not exempt': *Provided further, however*, That notwithstanding the preceding proviso the words 'property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)' shall not be deemed to include frozen fruits, frozen berries, or frozen vegetables and shall be deemed to include fish or shellfish, and fresh or frozen products thereof containing seafood as the basic ingredient, whether breaded, cooked, or otherwise prepared (but not including fish and shellfish which have been treated for preserving, such as canned, smoked, salted, pickled, spiced, corned or klppered products)."

(b) Unless otherwise specifically indicated therein, the holder of any certificate or permit heretofore issued by the Interstate Commerce Commission, or hereafter so issued pursuant to an application filed on or before the date on which this section takes effect, authorizing the holder thereof to engage as a common or contract carrier by motor vehicle in the transportation in interstate or foreign commerce of property made subject to the provisions of part II of the Interstate Commerce Act by paragraph (a) of this section, over any route or routes or within any territory, may without making application under that act engage, to the same extent and subject to the same terms, conditions, and limitations, as a common or contract carrier by motor vehicle, as the case may be, in the transportation of such property, over such route or routes or within such territory, in interstate or foreign commerce.

(c) Subject to the provisions of section 210 of the Interstate Commerce Act, if any person (or its predecessor in interest) was in bona fide operation on June 1, 1958, over any route or routes or within any territory, in the transportation of property for compensation by motor vehicle made subject to the provisions of part II of that act by paragraph (a) of this section, in interstate or foreign commerce, and has so operated since that time (or if engaged in furnishing seasonal service only, was in bona fide operation on June 1, 1958, during the season ordinarily covered by its operations and has so operated since that time), except in either instance as to interruptions of service over which such applicant or its predecessor in interest had no control, the Interstate Commerce Commission shall without further proceedings issue a certificate or permit, as the type of operation may warrant, authorizing such operations as a common or contract carrier by motor vehicle if application is made to the said Commission as provided in part II of the Interstate Commerce Act and within 120 days after the date on which this section takes effect. Pending the determination of any such application, the continuance of such operation without a certificate or permit shall be lawful. Any carrier which on the date this section takes effect is engaged in an operation of the character specified in the foregoing provisions of this paragraph, but was not engaged in such operation on June 1, 1958, may under such regulations as the Interstate Commerce Commission shall prescribe, if application for a certificate or permit is made to the said Commission within 120 days after the date on which this section takes effect, continue such operation without a certificate or permit pending the determination of such application in accordance with the provisions of part II of the Interstate Commerce Act.

AMENDMENT TO SECTION 203 (C) OF INTERSTATE COMMERCE ACT

SEC. 7. Subsection (c) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the period at the end thereof and inserting in lieu of such period a comma and the following: "nor shall any person in connection with any other business enterprise transport property by motor vehicle in interstate or foreign commerce unless such transportation is incidental to, and in furtherance of, a primary business enterprise (other than transportation) of such person."

Mr. HARRIS (during the reading of the bill). Mr. Chairman, in the interest of saving the time of the Committee, I ask unanimous consent that the further reading of the bill be dispensed with, and that it be printed in the RECORD and be open to amendment at any point.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 8, strike out lines 4, 5, and 6, and in line 7 'strike out "any of them."

The amendment was agreed to.

The Clerk read as follows:

Committee amendment: Page 8, line 12, strike out the comma after "train" and insert "or"; and strike out the comma after "ferry."

The amendment was agreed to.

The Clerk read as follows:

Page 8, line 13, strike out "station, depot or other facility."

The amendment was agreed to.

The Clerk read as follows:

Committee amendment: Page 8, line 14, strike out "directly affected" and insert in lieu thereof "served."

The amendment was agreed to.

The Clerk read as follows:

Page 9, line 6, strike out the comma after the word "train" and insert "or"; and strike out the comma after "ferry" and strike out "station, depot, or other facility."

The amendment was agreed to.

The Clerk read as follows:

Page 9, line 14, strike out the comma after "train" and insert "or"; and strike out the comma after "ferry" and strike out "station, depot, or other facility."

The amendment was agreed to.

Mr. HARRIS. Mr. Chairman, I offer a committee amendment.

The Clerk read as follows:

Amendment offered by Mr. HARRIS: Page 9, beginning on line 15, strike the following: "that such operation or service will not result in a net loss therefrom to the carrier or carriers and."

Page 9, line 17, strike the word "otherwise."

Mr. COAD. Mr. Chairman, I wish to address this House in favor of the amendment by my colleague from Arkansas, the distinguished chairman of the House Interstate and Foreign Commerce Committee, Mr. HARRIS. This amendment to section 4 of this bill H. R. 12832 will make the bill more acceptable to the railway industry, to the State regulatory bodies charged with the responsibilities detailed in this particular section, and to the general public. I

favor H. R. 12832, but if it were enacted without this amendment it would be contrary to fundamental public policy and the public interest. It would, without this amendment, put the public entirely at the mercy of the railroad by establishing a new standard for the discontinuance of train service by a mere showing of a loss in the operation of any train. Under section 4, as it now stands, the Interstate Commerce Commission may order the continuance of train service only if it finds, first, that it is required by public convenience and necessity; second, that such operation will not result in a net loss to the carrier; and, third, that it will not unduly burden interstate commerce. Therefore, the State commission would be compelled as a matter of law to permit the discontinuance of service unless, among other things, it can determine and find that the operation of such service will not result in a loss to the carrier, even though the Commission may determine that the public convenience and necessity require such service and that such service would not unduly burden interstate commerce.

I am well aware that the railroad industry is presently in a critical financial position, and I will be among the first to support reasonable measures to ease this condition. However, I believe that the bill without this amendment would ignore the public interest which we have tried to protect and maintain in the past. We cannot go so far afield as to say that unless every single item of service shows a profit the railroad can discontinue any service regardless of public convenience and necessity.

Section 4 of this bill is not as essential as other provisions of this measure. But let us make sure that we protect the public as well as assist the railroads. The other sections of the bill provide the measures which deal with the pressing financial problems facing this industry. Let us remember that our railroads are public utilities, designed, created, and maintained to serve the public interest and convenience. If section 4 became effective without this amendment, we will have reversed this time-honored concept of railroading which has won for the industry the great esteem and respect of the people which it now enjoys.

Mr. Chairman, I urge the adoption of this amendment and, if adopted, the passage of the bill.

The amendment was agreed to.

The Clerk read as follows:

Committee amendment: Page 9, line 20, strike out "train, ferry," and insert "train or ferry"; strike out "station, depot, or other facility."

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

On page 12, line 2, strike out "or vegetables" and insert "vegetables, coffee, tea, cocoa or hemp, and wool imported from any foreign country or wool, cleaned or scoured, wool tops and noils, or wool waste, carded but not spun, woven, or knitted."

Mr. STAGGERS. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. STAGGERS: On page 12, line 3, after the word "country", strike out "or wool, cleaned or scoured."

Mr. HARRIS. Mr. Chairman, this language has been called to my attention and I discussed it with several Members on the floor. I understand the purpose of it, and the author of the amendment in the committee agrees to it. Therefore I accept the amendment.

The CHAIRMAN. The question is on the amendment to the committee amendment.

The amendment to the committee amendment was agreed to.

(Mr. FISHER asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. FISHER. Mr. Chairman, I am pleased to know that the committee is agreeable to an amendment which will protect the present exemption from the Motor Carrier Act of scoured and clean wool. The committee amendment would put such wool under the act and make it subject to ICC rates and regulations. But the amendment to the committee amendment will restore the present exemption, and I am grateful to the gentleman from West Virginia [Mr. STAGGERS] for his interest in it and his willingness to offer the corrective amendment. I have been assured by the minority members of the Interstate and Foreign Commerce Committee that they are agreeable.

Mr. Chairman, there are now upwards of a hundred scouring plants in the country, located in about 20 States. They are small enterprises and mostly operate on a rather tight margin of profit. They have always been exempt from the Motor Carrier Act. In some areas scoured wool is moving by truck at rates over \$1.50 per hundredweight less than rates charged by railroads. This can in some instances be the margin that keeps them in business.

The retention of the present exemption is strongly supported by the American Wool Growers Association, the National Wool Marketing Corp., the National Council of Farmer Cooperatives, the National Grange, and the American Farm Bureau.

I would personally prefer that all other language imposing regulation upon the movement of wool, such as imported wool, wool tops, wool waste, carded but not spun, woven or knitted, be removed from the Motor Carrier Act. But we appreciate the concession that has been made. Wool that is imported is often moved along with domestic wool, intermingled to some extent in scouring and cleaning, where that is done. But whether intermingled in that fashion or not, it is often handled in the same warehouses and it will be difficult to have one set of rates for one form of wool and a different rate for another, whether domestic or imported. It poses an obvious difficulty in administration. It is hoped the conference committee will give attention to that, with the view of possibly

striking out all language dealing with wools.

Mr. MILLER of Maryland. Mr. Chairman, a parliamentary inquiry. I have an amendment to line 1 on page 12.

The CHAIRMAN. Is that an amendment to the committee amendment or a separate amendment?

Mr. MILLER of Maryland. It is a separate amendment. It is on page 12, line 1.

The CHAIRMAN. That may be considered at the proper time.

Mr. ROBERTS. Mr. Chairman, I have an amendment to the committee amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. ROBERTS to the committee amendment: On page 12, line 2, after the word "cocoa" insert "bananas."

BANANAS AS AN EXCEPTION TO THE AGRICULTURAL EXEMPTION

Mr. ROBERTS. Mr. Chairman, bananas are not produced in commercial quantities in the United States but are imported from Central and South American countries principally through the ports of New York, Baltimore, Charleston, Mobile, New Orleans, Los Angeles, and Seattle. Bananas are a staple year-round fruit distributed throughout the United States. They compete with domestically produced fruits such as strawberries, peaches, cantaloupes, apples, pears, and grapes.

Keeping in mind the basic reasons for the agricultural exemption in the first instance, it is clear that bananas should not be classified with domestic fruits and vegetables for the purpose of the exemption.

For the most part, domestic fruits are seasonal and therefore seasonal transportation has been deemed to be essential to the expeditious and orderly distribution of those fruits. Bananas, on the other hand, move between the ports and inland points on a regular basis throughout the year. For this reason there is no justification for encouraging exempt transportation of bananas.

Domestic fruits and vegetables move to market from widely scattered farm areas, many of which do not have the benefit of regular motor or rail service. The agricultural exemption was designed, in part at least, to encourage truck owners to serve these farm areas. Bananas are not transported from scattered areas. On the contrary, they are transported from the Nation's principal ports where there is an abundance of transportation of all types.

The agricultural exemption was further designed to create a method for gathering domestic agricultural products at centralized markets. Bananas originate in this country at central points. Therefore, there is no need for the gathering service the agricultural exemption was designed to create.

The port of Mobile, while ranking fourth in banana importations, is typical of other United States ports through which bananas are imported. Pier 1 at that port is devoted exclusively to the handling of bananas from ship to rail car. The full time of 373 men, represent-

ing an annual payroll of approximately \$2 million, is utilized in the cleaning, loading, and icing of rail banana cars. The Gulf, Mobile & Ohio Railroad, alone, has a property investment of almost a quarter of a million dollars in the future of banana trade through the port of Mobile.

In 1957 exempt truckers transported 4 percent of all the bananas moving through the port of Mobile. Thus far in 1958, the truck volume has increased to 9 percent. The increase is due, in large measure, to the growing tendency of those not regularly engaged in transportation for hire, to take advantage of the exempt status of bananas, to reduce their private carriage cost. It is not unusual for hardware merchants and others to be seen taking on a truckload of bananas at the port of Mobile. Such a tendency is not good for regulated carriage or for the port of Mobile.

Port facilities basically are but an interchange point between water and land transportation. In order for any port to expand and prosper, the continuity of reliable transportation must be preserved. The diversion of traffic from reliable forms of transportation to the itinerant and private truck causes a breakdown of relationship essential to the well-being of the port.

The mounting diversion of banana tonnage from those carriers having substantial property investments at the port tend to discourage future similar investments and encourage investments in other properties having a more stable future. Excluding ores, bananas represent approximately one-fourth of all tonnage moving through the port of Mobile.

The exception of bananas from the agricultural exemption would not be harmful to those already legitimately engaged in transporting bananas by truck. Under both the House and Senate bill those carriers are protected by a grandfather clause and may, if they so desire, obtain a permit or a certificate from the Interstate Commerce Commission and continue their transportation on a sound and reliable basis. Only those who are not legitimate private, contract, or common carriers would be eliminated.

Bananas are in the same category as other imported agricultural commodities, such as coffee, tea, and cocoa, that would be brought under regulation by H. R. 12832. Generally speaking those commodities move from the port of import to interior processing or marketing points in rail carload or truckload lots. There is no comingling of those imported commodities in shipments from the port with any agricultural commodities produced in this country. Bananas also move without comingling with domestic products. The comingling of bananas that takes place is in local movement in legitimate private carriage by a wholesaler of produce after the bananas have moved from the port of entry to the market point. However, contrary to such items as coffee and tea, bananas do compete with fruits produced in this country.

The CHAIRMAN. The question is on the amendment to the committee amendment.

The amendment to the committee amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment as amended.

The committee amendment as amended was agreed to.

Mr. HARRIS. Mr. Chairman, I offer an amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. HARRIS: Page 4, line 17, change the period to a comma and add the following: "and if the Commission fails to determine that on the date of the application the carrier has substantial deferred expenditures for maintenance of property, that such deferral has been required by the carrier's financial condition, and that the carrier and lender have made arrangements which provide reasonable assurance that the proceeds of the loan will be used only to raise the annual level of maintenance expenditures by the carrier over the average annual level of such expenditures by the carrier during the period when such maintenance expenditures were being deferred."

Mr. HARRIS. Mr. Chairman, this amendment simply means that if the carrier obtains a guaranteed loan for maintenance purposes, that the carrier itself cannot take its own money and put into its operations otherwise. This means that if the carrier were to obtain a million-dollar loan that it itself would have to make up an equal amount for maintenance purposes.

This amendment is one that has been requested by the Department of Commerce on behalf of the administration. I felt that it was of sufficient importance to accept and send to conference in order that it can be more thoroughly analyzed.

Mr. O'HARA of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield.

Mr. O'HARA of Minnesota. Mr. Chairman, we discussed this amendment. I think it is rather new. Although the gentleman from Arkansas and myself did not have a chance to study its full import, I do think it is well for this matter to go to conference as part of the bill so that we will have further opportunity to consider it.

Mr. HARRIS. It is a further restriction placed upon the guaranteed loan provision.

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

Mr. FLYNT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLYNT: Page 7, line 17, strike out all of section 4 and insert a new section 4 to read as follows:

"SEC. 4. The Commission, in cooperation with State utilities commissions, shall make a study of the passenger train deficit problem and report to the Congress not later than June 30, 1959, together with such recommendations as the Commission deems to be necessary or appropriate."

Mr. FLYNT. Mr. Chairman, I offer this amendment to correct certain defects which have been pointed out during general debate on this bill which have been emphasized by a number of questions and inquiries.

First of all, let me say that I am in full accord with most of the provisions of this bill, and I intend to support it; but there is an honest difference of opinion between the distinguished chairman of the Interstate and Foreign Commerce Committee and myself on the effect of section 4 of this bill. This amendment is offered in utmost good faith. It is not offered or intended as a crippling amendment. I believe that it will strengthen the bill.

Section 4 should be deleted and a provision should be in the bill calling for a 1-year study and report to be made jointly by the Interstate Commerce Commission in cooperation with the State utilities commissions recommending such action as shall be deemed appropriate or necessary after a thorough study of the passenger train deficit problem.

At the very best, the elimination of control of intrastate passenger service from State railroad and utility commissions would virtually strip the local State utility commissions of their authority to regulate passenger train service within those States even on a purely intrastate basis.

At worst, failure to adopt this provision could mean that the railroad companies themselves could call the turn and thus decide which passenger train service shall be retained and which shall be discontinued.

My amendment calls for a thorough and complete study to be made of the passenger train deficit problem. After that study has been made and the report has been submitted to Congress I think there will be ample and adequate time, if in the judgment and wisdom of the Congress it becomes necessary, to adopt the provisions which are contained in present section 4. The committee heard no testimony from either the Interstate Commerce Commission or from any State commission that this authority to regulate passenger service should be shifted.

The State utility commissions thus far have been very generous in their action on applications and petitions to discontinue passenger service. Mr. Chairman, during the 6 years 1951 through 1956 there were 1,471 applications submitted for discontinuance of passenger-train service. Of that 1,471, 1,274 were approved as applied for; 197 were denied by the local State commissions. Of those 197, 125 were in only 6 States. Of those 125, 45 were in the State of New York alone in only 1 year. So in the remaining 42 States, during a 6-year period on 72 applications for discontinuance of passenger service were denied by State commissions.

This amendment of mine calls for a complete and adequate study and report to be made by the Interstate Commerce Commission in cooperation with the various State utilities commissions, that report to be submitted with such recommendations as may be necessary and appropriate by June 30, 1959, only 1 year from Monday next.

Mr. Chairman, with all of the good points which are contained in this committee bill and the amendments which

have been developed by a period of long study and action by this committee, I believe that the public interest, the interest of the railroads themselves, will be better served by deferring for a period of 1 year this transfer of authority during which this proposed study could be made. The States have held this authority throughout the 71-year history of the Interstate Commerce Act of 1887. It should not be changed now in this respect.

The chairman of our committee has stated, and I know he did so in complete sincerity, that the Federal Government and the Congress yielded this authority to the States. With complete sincerity I disagree, in that it is my belief this is an inherent right of the States which the States have because the Congress had not heretofore deemed it to be necessary or appropriate to usurp the authority which rests with the State commissions.

I urge the adoption of this amendment.

Mr. OSMERS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would like to ask the gentleman from Georgia a question about his amendment. Does this amendment remove all of the new Section 13a with the exception of paragraph (3) which provides that the Interstate Commerce Commission in cooperation with the State utilities commission shall make a study and report their recommendations to Congress not later than June 30, 1959?

Mr. FLYNT. The answer is yes.

Mr. Chairman, this amendment strikes out of the bill all of the language which increases the authority of the ICC to terminate passenger facilities, particularly facilities used in interstate commerce. It leaves in the bill a very necessary provision which directs the Interstate Commerce Commission to study the problem of passenger train deficits in cooperation with the State utilities commissions. In the amendment, the ICC is directed to submit its report to Congress with recommendations not later than June 30, 1959. Such a study and report would be of immense help to Congress in preparing sound legislation dealing with the knotty problem of passenger traffic deficits. Congress has never really had a comprehensive report on the subject. The States of New York and New Jersey are jointly exerting great efforts to solve this problem.

Nearly a million dollars was spent by the Metropolitan Rapid Transit Commission to prepare a plan for solving the problem of New York-New Jersey commuter service. The State of New York has voted to create a permanent bi-State commission and the New Jersey Legislature is considering doing likewise. The House should realize that the impact of this section of the bill will fall heavily on a relatively small geographical area in the New York metropolitan area. The destruction of economic values through the hasty elimination of commuter rail service permitted under this bill in the northeastern New Jersey area will be staggering. Thousands of

families have built their lives and their homes on the assumption that the railroads will continue to serve the public. The solution to the commuter problem is of course, a public responsibility and not solely a railroad problem but I am pleading for the adoption of this amendment in order to gain time for the completion of the necessary plans to protect the innocent public.

Mr. ALLEN of Illinois. Mr. Chairman, I move to strike out the requisite number of words.

Mr. Chairman, when I spoke on the rule earlier today I mentioned something about crippling amendments and that I hoped we would not adopt any amendments except those which the Committee on Interstate and Foreign Commerce offered.

I have the greatest of affection for the gentleman from Georgia. He is one of the most able and conscientious men in the House. We all agree on that. At the same time, may I ask the gentleman, did he offer this amendment in the Committee on Interstate and Foreign Commerce?

Mr. FLYNT. That is correct. This amendment was offered by me first to the Subcommittee on Transportation and Communications. In subcommittee it failed of adoption by a small margin. It was then submitted to the full Committee on Interstate and Foreign Commerce and it is my recollection that in the full committee the vote on rejection of the amendment was 11 to 8.

I would like to say, if I may, to the gentleman from Illinois that my amendment is by no means considered by me, and so far as I know by any other person, as a crippling amendment. I would like to say to the distinguished gentleman that it is my opinion and sincere belief that this amendment will strengthen the bill in that it will give us a spread of 1 short year in which the Interstate Commerce Commission, in cooperation with the State utility commissions, can make a joint study of this problem which I feel needs to be made. During the hearings on this bill we heard no testimony, to my recollection, from the Interstate Commerce Commission that they considered section 4 necessary or desirable or that they advocated its inclusion in the bill. On the contrary, we heard a spokesman for the National Association of Railroad and Utility Commissions state that the utility and public service commissions throughout the United States are unanimous in opposing section 4 and in support of the amendment.

Mr. ALLEN of Illinois. In conclusion, may I say, Mr. Chairman, as much as I respect the gentleman, I do not think here in the closing minutes of debate in winding up this bill that we should become involved in something that the committee itself turned down once, and I hope that the gentleman's amendment is defeated.

Mr. HARRIS. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Chairman, the amount of time allocated to each of us is indicative of the speed with which we are moving in this field, which, in my judgment, in view of section 4, would change the historical pattern of railroad transportation in this country. We have always recognized the public interest in the service to be rendered by transportation companies. In recent years we have provided millions and millions of dollars for feeder airlines on the basis that there was a public interest in giving area coverage or service to the people. If section 4 stays in the bill, it means that all of the service in practically each of your districts is left entirely up to the Interstate Commerce Commission in Washington, because the State utility commissions no longer will have any say-so as to the service or rail lines operating interstate. Most of the service comes from railroads which are interstate. It is only infrequently in the average section of this country that you have a railroad line or railroad company that operates solely intrastate, and section 4 says that, notwithstanding any order by any State regulating body, or any State constitution or law, the Federal agency can restrict the stopping of any service on any interstate line in any State, and further offers no guide rule to restrain the Interstate Commerce Commission in any way.

Mr. Chairman, I had expected to support this bill, but unless section 4 is removed or modified I do not see how I can support this measure.

I hope this amendment will be adopted.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. YOUNGER].

Mr. YOUNGER. Mr. Chairman, I just want to make one statement. I listened to all of the testimony that was presented. I think I attended every meeting of the subcommittee, and I want to say to you and say to you sincerely that unless this section of the bill is passed to correct the evils that now exist, we will not accomplish anything for the railroads. The reason why the railroads are before us today is the evil in the existing act which we are trying to correct with section 4. I sincerely hope you sustain the committee and leave section 4 in the bill.

The CHAIRMAN. The Chair recognizes the gentleman from Alabama [Mr. ROBERTS].

Mr. ROBERTS. Mr. Chairman, I join my colleague from Georgia in supporting his amendment. I acted as chairman at most of the hearings on this bill. I would not support a proposition that I thought would deny needed relief to the railroads. I believe if we take the amendment of the gentleman from Georgia we will be in a position to work out some kind of a compromise whereby States rights will be protected and whereby commissions that have admittedly done a good job, will be encouraged to continue to do a good job; and also, whereby we can remedy some of the criticisms that have been leveled at some of the commissions that have

refused to give railroads needed relief on proper petition.

Mr. Chairman, I think undoubtedly if this amendment is not agreed to, when people in some locality want to protest, they are going to have to come all the way to Washington instead of going to their State capital. I think undoubtedly unless the gentleman's amendment is agreed to we are going to have that condition.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana [Mr. BEAMER].

Mr. BEAMER. Mr. Chairman, I think all of us recognize that the gentleman from Georgia has offered an amendment in all sincerity. However, I believe the action of the House today on the amendment offered by the chairman of our committee has satisfied those people who may have objected to that particular portion of the bill to which our colleague from Georgia has objected.

First of all, there was an objection on the part of some of the railroad brotherhoods. I have been informed very definitely that they approve the legislation as it is now without the amendment of the gentleman from Georgia. I know that some of the public service commissions of various States also had objected because they thought this would take away some of their rights. Speaking only for my State, I have been in constant touch with the chairman of our public service commission in Indiana. He has read the legislation and says that he likes the House bill as it is written and is very much in agreement with it.

Mr. Chairman, for those two reasons I think we have answered the objections that probably the gentleman from Georgia was concerned about. I hope the amendment will not prevail.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts [Mr. O'NEILL].

Mr. O'NEILL. Mr. Chairman, I hope the amendment will not be adopted. Coming from New England where we have 2 of our major roads in serious trouble—as to one of them, it is doubtful whether or not they can last the year—the adoption of the Flynt amendment will destroy the very core and heart of this bill, and you may well discount the effect of this bill. If the amendment is adopted, you will actually give the railroads no relief whatsoever.

Mr. Chairman, reading from the report:

Under the act, the Interstate Commerce Commission has jurisdiction over the complete abandonment of a line of track. The discontinuance or change of schedules of trains (without complete abandoning of the line of track over which they operate), however, is subject to the jurisdiction of the interested States. Such local regulation of what has come to be a national problem has hampered the railroads from making some changes in their passenger train operations in line with changes in patronage, and has contributed greatly to the passenger deficit. Witnesses have not suggested that all State commissions have taken obstructive attitudes, but only that it has proved impossible to secure necessary relief in some States. . . .

Because of this delay in authorizing, or absolute refusal to authorize, discontinuance

of little-used services, it is proposed to add a new section 13a to the act.

That is the reason why we have this amendment in the bill today. I think if you are really going to do something for the railroads, you should vote against the amendment that has been offered, even though it has been offered in good faith. The great problem that they have is that they have not received enough cooperation from the public utility commissions in the various States.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa [Mr. COAD].

Mr. COAD. Mr. Chairman, I ask unanimous consent to extend my remarks at that point in the RECORD prior to the adoption of the Harris amendment on page 9, line 15.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Arkansas [Mr. HARRIS] to conclude debate.

Mr. HARRIS. Mr. Chairman, I have tried to the best of my ability to explain clearly the provisions of this amendment. I appreciate the sincerity of the gentleman from Georgia, but in my humble judgment this would be a most crippling amendment.

Mr. Chairman, the shippers of this country are making up a deficit every year of over \$700 million in losses in passenger service. There are certain areas in this country that are responsible, only limited areas, and we are trying to get at that particular problem and nothing else. I ask that the amendment be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia [Mr. FLYNT].

The question was taken; and on a division (demanded by Mr. FLYNT) there were—ayes 30, noes 118.

So the amendment was rejected.

Mr. ALGER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ALGER: On page 1, line 7, strike out section 2.

Mr. ALGER. Mr. Chairman, I shall briefly recapitulate the material presented earlier concerning why I am opposed to section 2, and ask to strike it from the bill.

First of all, this Government guaranty of loans is a precedent, and, I hold, a bad one. Remember, this is the first time for Government loan guaranty for railroads. Here we go again on an emergency program.

Further, it is only for five carriers, we are told, yet this section covers all the railroads. From all railroads, why not go to all carriers?

This is called temporary, yet they are 15-year loans. Is that temporary?

There is no upper limit to the amount the Government can guarantee. Is not this loose language?

The retroactive date is January 1, 1957, not the effective date or the enactment date of this bill. Why?

There will be more governmental control of railroads, not less. Think about

the redtape involved, since the Interstate Commerce Commission must do its job of safeguarding Government credit properly.

Other relief is needed to help these railroads, such as in tax matters, the elimination of the excise taxes. The railroads ought to help themselves. To recapitulate what I said earlier, when you total up the \$241 million time paid for by the railroads but not worked, plus the \$150 million for mileage that was shown to be run that was not run, plus nearly a possible \$50 million of savings on injuries, you have almost a half billion dollars of savings possible if the railroads will help us to help them. Featherbedding is part of that. Why guarantee it with Government credit?

State help is needed, as many of you know. The States should play their part in reducing taxes and making more equitable other provisions so that the tickets and freight rates can be a little less. I say this is a good bill and that there is relief given in the other 5 sections of the bill without section 2. Therefore, I suggest we strike section 2 from the bill.

Mr. Chairman, as a member of the Committee on Interstate and Foreign Commerce, I voted to report this bill, but I have misgivings about the wisdom of enacting section 2 of the bill which provides for federally guaranteed loans to the railroads. Surely, if we authorize Federal guaranty of loans to the railroad industry now we cannot logically deny this relief, assuming the need arises, to other common carriers, whether they be trucks, buses, water carriers, oil or gas pipelines, freight forwarders, sleeping-car companies, railway express, scheduled airlines, telephone and telegraph companies, et cetera.

The need for providing guaranteed loans was shown to exist for only a few railroads, particularly in the New England region. Perhaps an equally acute need for such loans can be shown for certain individual truck or bus lines, water carriers, freight forwarders, or pipelines. I fear that if this legislation is enacted it won't be very long before we are asked to guarantee the loans of other common carriers.

My concern is that once we start this program of guaranteed loans, the carriers, even Members of Congress, might be lulled into a feeling of complacency and paternalism rather than to give attention to rooting out the basic ills of the industry, which have occasioned the need for this financial help. The financial guaranty is allegedly temporary. How temporary is 15 years, the length of these loans?

I am not convinced that the railroad industry has done all it should to help itself before coming to the Federal Government asking for help in the form of guaranteed loans. What have they done to reduce unnecessary expenses and featherbedding? I was very much surprised to find in wage statistics published by the Interstate Commerce Commission that for the calendar year 1957 class I railroads paid approximately \$241 million compensation for time not

worked. This amount does not include the time paid for but not worked of train and engine crews. I realize that some of this time paid for but not worked includes vacation allowances, but it far from includes all so-called featherbedding, the exact amount of which I was unable to determine.

Train and engine crews still operated under working rules established during the horse-and-buggy days when a 100-mile run in freight service constituted a day's work. Statistics published by the Interstate Commerce Commission show that class I railroads paid during 1957 for 428 million miles which were not run. This constitutes over 9 percent of the mileage actually run, which would correspond roughly to \$150 million during the year.

Does it not follow that the railroads should insist upon changes in working agreements with the employee representatives toward the end that this featherbedding be eliminated? I believe that it is in the best interest of the railway labor organizations to cooperate with the carriers in establishing fair and equitable working agreements which are geared to a more realistic appraisal of the relative status of the railroad industry as a common carrier. Railroad employees themselves should recognize the fact that their wages must be paid out of revenues and that the more the railroads are saddled with unnecessary and burdensome expenses the higher the rates on freight and passengers will be.

I suspect that the railroads to some extent have already priced themselves out of the market. That is why they are losing traffic, relatively speaking. And a loss of traffic inevitably means a loss of jobs for railroad employees. I understand that the number of employees in the railroad industry is now less than 825,000, which is the lowest level of employment ever recorded for this industry.

Next, class I railroads pay over \$100 million a year for injuries to persons, about 80 to 90 percent of it being paid for injuries to employees. Some carriers have excellent safety records. Other carriers have poor safety records. If a concerted drive were made to improve the safety on all carriers probably up to \$50 million a year could be saved.

In addition, the railroad industry can assist itself by eliminating as much as possible the duplication of services and facilities. It should consolidate terminals wherever possible. I understand that many millions of dollars can be saved by such consolidations. The industry should become more aggressive in soliciting traffic. These are but several of the efforts railroads can make to help themselves, before Government guaranteed loans are asked.

The very provisions of this bill obviate the need for guaranteed loans. The rule of ratemaking has been liberalized. The railroads are given authority over the discontinuance of unprofitable interstate services of any train or ferry unless the ICC orders otherwise. The agricultural commodities exemption has been frozen so that there will no longer be a whittling away of regulated categories of traffic to

the exempt status. The definition of private carriage by motor vehicle has been tightened so as to eliminate pseudoprivate carriage. These provisions should correct some of the basic troubles which have weakened the railroads financially.

Further, there are other Federal Government measures that will help legislation Congress should initiate. The wartime excise taxes on freight and passenger transportation can be repealed. Depreciation allowances can be liberalized. These congressional actions would greatly help the railroads.

It would seem to me that the States have equal responsibility with the Federal Government in seeing to it that the common carrier system is maintained in a healthy condition. State laws which hamper the railroads or trucks from conducting economical and efficient service are a detriment to the carriers and the public generally. They unnecessarily increase the expenses of the carriers and ultimately result in increased rates and fares, which the public must pay.

This bill offers relief, without section 2. When added to the provisions of this bill are, first, more economic and efficient operation by the railroads; second, the additional Federal corrective legislation herein mentioned, such as excise tax repeal; and, third, State tax and service readjustment, the conclusion may well be that Government-guaranteed loans are premature and a most dangerous precedent in the name of helping the railroads. By establishing through public credit the Government-guaranteed loan before taking the other corrective action, we may perpetuate the very mistakes that now need correction.

Mr. SPRINGER. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I have talked to the gentleman from Texas on several occasions. I know how he feels about this particular section, and I know that what he has said is in line with his philosophy generally about government, and I think all of us respect him for it.

Mr. Chairman, the committee gave very serious consideration to this section. May I say the committee reluctantly arrived at the decision that this was absolutely necessary, if we were to do anything for the railroads which badly needed this type of help. The other five sections, I think, are to help all railroads, to help not only those in bad financial condition, but for the purpose of improving the railroads generally.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. SPRINGER. I yield.

Mr. HARRIS. I am sure the gentleman means to say the other provisions of this bill are to help all common carriers.

Mr. SPRINGER. That is true. I stand corrected, Mr. Chairman. It is to help all common carriers. But this particular section which has to do with the guaranteeing-of-loans provision is to help those particular railroads that are in bad financial condition and cannot borrow money otherwise. We had at least two railroad presidents who testified that their situation was immediate,

urgent and, if anything had to be done, it had to be done before the end of this session of the Congress. For that reason the committee came to the conclusion that this section was absolutely necessary if we are to preserve those railroads which need financial help immediately. I think this section of the bill is good and it is badly needed by these railroads that are in bad financial condition, and I urge that my colleagues will vote down this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. ALGER].

The amendment was rejected.

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: On page 4, after line 17, insert a new subsection as follows:

"() For more than 90 percent of the unpaid principal and interest of any loan."

Mr. DINGELL. Mr. Chairman, there is no testimony in the record and there is no information that the committee had which in any way gave us any understanding or knowledge of what liability the Federal Government was assuming under this particular loan guaranty section. The Senate bill originally had language which provided for an upper limitation of \$750 million on the liability of the Federal Government. As most of the members of the committee know, the original bill also had a provision for an upward limit of the Federal Government's liability under this bill of 90 percent of the amount of the loan, again in the interest of the taxpayers. Now, to go a step further, this will take in, without any safeguards in the bill that I can see at all, a tremendous number of loans and obligations which the railroads are going to incur with no opportunity for statutory supervision by the Congress. The only thing that we will get is that we are going to be placing the Federal Treasury and the Federal taxpayers at the mercy of the Interstate Commerce Commission and at the mercy of the railroads and the lending institutions. The reason behind this amendment is simple. First of all, I seek by this amendment to place a definite responsibility on the loaning institutions to make sure that the loans which they make under this bill and which will be guaranteed by the Federal Government will be sound and safe. If you do not include this amendment in the bill, the danger is this, that a railroad can go out and make loans of almost any sort with the blind reliance of both the railroad and of the lending agency on the credit of the Federal Government.

I am going to make this statement, and I defy anyone to challenge it: This is not a guaranty section. It is a surety section. It is denominated as a "guaranty," but the lawyers among us will say that this is a surety. The Federal Government puts itself in the position of one who is a principal, obligated to the lender of the money, and we assume obligation for the payment of the money. All a lending institution has to do is to say, "We are going to hold the Government responsible."

If you impose on a loaning institution the responsibility of taking only 10 percent of the loan, you will make sure that those loans are made safe and secure in the best interests of the taxpayers that you and I represent. No other Federal guaranty of this nature has been in the amount of 100 percent. The only Federal guaranties of a greater amount have been those in the type of insurance loans.

I now yield to the gentleman from West Virginia [Mr. NEAL].

Mr. NEAL. Mr. Chairman, I associate myself with the gentleman, and it is well for us to consider the responsibility of the Federal Government. If agencies lending money are not willing to assume a 10-percent risk, it seems to me foolhardy for the United States Government to pick up the tab.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. DINGELL] has expired.

Mr. MACK of Illinois. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, it is not my intention to take the full time. I offered a similar amendment in the Committee on Interstate and Foreign Commerce. I believe it lost by one vote. I do believe this is a good amendment. The only precedent we have had as far as these loans are concerned was in the last Congress for local-service air carriers, in which we limited those loans to 90 percent. I believe this is a good amendment, and I would like to see it adopted. I want to congratulate the chairman of our committee and the members of the subcommittee on the very outstanding job they have done in preparing this legislation.

Mr. HARRIS. Mr. Chairman, I ask unanimous consent that all debate on this amendment close in 2 minutes.

The CHAIRMAN. Is there objection? There was no objection.

Mr. HARRIS. Mr. Chairman, I sincerely hope that this amendment does not prevail. We put such a limitation on the small airline guaranteed loans bill and we find that the 10-percent provision which the carriers themselves had to make up was such a requirement that they could not meet it, and therefore they have not been able to get the full benefit of the loan provision which we provided for them. If you put this kind of restriction or limitation on the legislation, it may well be that the railroad which needs it most, and for whom this provision is provided, cannot take advantage of it and maintain the service, because it cannot supply the other 10 percent to go along with it.

I hope the amendment will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. DINGELL].

The question was taken, and on a division (demanded by Mr. DINGELL) there were—ayes 10, noes 95.

So the amendment was rejected.

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: On page 4, after line 17, insert a new section as follows:

"Unless the Commission is of the opinion that the prospective earning power of the applicant carrier, together with the character and value of the security pledged, if any, furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and reasonable protection to the United States."

Mr. DINGELL. Mr. Chairman, again I want to say I am sorry to take so much time on Friday afternoon when we are all anxious to get home, but I want to say to my colleagues this: This is one of the largest responsibilities that the Federal Government is going to take on of an economic nature this year aside from foreign aid. I think, therefore, it is high time you took a look at this from the standpoint of seeing that your taxpayers and my taxpayers are protected in the matter of taking on great responsibilities in which they have no say, and of a nature which is inherently hazardous and which will result in the Federal Government's assuming tremendous obligations, as all of us are aware.

The language of this amendment I took from the bill offered by Senator SMATHERS of Florida. As everyone in this Chamber knows, Senator SMATHERS has worked long and hard to get a bill through the Senate, and Senator SMATHERS was particularly careful to see to it that it was in the print of the bill which I have, S. 3778.

This is the language: It guarantees that no loan will be guaranteed by the Interstate Commerce Commission unless the Commission is of the opinion that several things are true: First, that the prospective earning power of the applicant carrier together with the character and the value of the security pledged, if any, furnish reasonable assurance of the applicant's ability to repay the loan within a reasonable time; that is, within the time fixed therefor.

The second thing it guarantees is that the United States is protected.

This is just good, sound, sensible business practice. I have been told by colleagues on the committee that the Interstate Commerce Commission is going to do exactly this anyway. If they are going to do it anyway, there is no objection then, to seeing to it that this is done by legislative fiat, and we expect them to do it. Let us put it in the bill that we expect them to do it.

Let us look at this a little further. Two and six-tenths billion dollars is the amount of the debt of the railroads of this country today. There are a number of them that are in bad financial shape. Those that are in bad financial shape are the ones who would take advantage of this. Thus the danger is multiplied as to the liability of your taxpayers and mine. In addition to that, the amount of liability which we can assume is practically unlimited. Senator SMATHERS seemed to feel that \$750 million was not an unreasonable liability to expect the Federal Government to assume under this particular section.

I think the only thing we can do in the interest of protecting our people is to see to it that this language is in the bill. Once this gets to the Senate, frankly, they will insist on having this feature as part of the bill when the matter goes

to conference. This matter is certainly going to conference. This language will hurt no one. It will only guarantee that your taxpayers and your constituents, my taxpayers and my constituents, are fully protected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. DINGELL].

The amendment was rejected.

Mr. DINGELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: On page 4, after line 17, insert a new subsection as follows:

"Unless the Commission is of the opinion that the applicant carrier is not in need of reorganization of its capital structure."

Mr. DINGELL. Mr. Chairman, I notice now that the House has turned down two amendments to protect the taxpayers of this country. I have no doubt but what the House will turn this one down. But I want you to know what you are voting against when you vote against my amendment. If and when we find that the taxpayers and the people of this country have assumed a tremendous liability, I do not want anybody in the House of Representatives to come up to me and say: "John, I did not know what was going to happen," because I will tell you "I told you so."

This is the weakest amendment of the three. This amendment sorts the sheep from the goats. This amendment will guarantee only one thing, that we will not be lending money or will not be guaranteeing loans of money to carriers whose capital structure is in need of reorganization.

What does that mean? Let's see what it is in the language of a layman. We are not going to be guaranteeing any loans to bankrupt railroads. This sorts the railroads which are able to make ends meet and able to operate out from the others in the industry. We are not going to buy any dead horses. If you are in favor of buying dead horses for your taxpayers and mine you go ahead and vote against the amendment. I intend to vote for this amendment.

Very frankly, I aim to be around to remind my colleagues in a few years "I told you so" because you are assuming 15 years responsibility for loans which were made since the first of January 1957. There is no legislative expression in this bill whatsoever setting up any intelligent standards for any safety in the assumption of the risk which we are going to assume. It is very liable to be a very big one and you and I here as Members of Congress, as representatives of our people back home, are very liable to be pretty sore if you do not at least take this minimum amendment.

Mr. HARRIS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan [Mr. DINGELL].

Mr. Chairman, I appreciate the sincerity of the gentleman from Michigan in offering this amendment, as well as the others which he has offered, but it is another one of these crippling amendments and I ask that the amendment be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. DINGELL].

The question was taken; and on a division (demanded by Mr. DINGELL) there were—ayes 10, noes 99.

So the amendment was rejected.

Mr. MILLER of Maryland. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Maryland: On page 12, line 1, strike out all of line 1.

Mr. MILLER of Maryland. Mr. Chairman, I can assure my fellow members on the committee that I fully realize the lateness of the hour, and I suppose no one here is more eager to get away from the Hill at this time than I am. But, I would appreciate it very much if you would listen to me very briefly, because this amendment that I have been trying to get to the floor most of the afternoon is not going to wreck anybody as far as the transportation world is concerned, but it might well wreck some of your constituents and undoubtedly might wreck some of mine. And, I do not believe it is a crippling amendment, as was referred to by the gentleman from Illinois and others.

In a word, it involves the retention at the present time of the exemption that is given to frozen fruits and vegetables as an agricultural commodity and does not in this legislation alter the situation that has historically developed. When this legislation was first considered by the various committees of the other body and of this House there was an effort to take all frozen foods out of the agricultural exemption category, and studies were made with respect to poultry, with respect to seafood, and also even just the last few minutes wool was included in this new legislation that will affect so drastically the people in the small areas. Now, if this language is retained in the bill, it will have the effect of crippling a lot of the small food processors that are in areas where they are not served by railroads or where the railroad travel is not adequate to carry the small quantities they have. If this remains in the bill, the farmers who are dependent on those food processors for their outlet, for their asparagus, their beans, or their corn, or their strawberries, or whatever it may be, will be seriously damaged. This language is claimed to be very detrimental by all of the small producers I have had contact with, and why in legislation of this magnitude, in order to help somebody without helping them very much, should we cripple an important part of our agricultural setup? Now, can anybody tell me what the difference is? Why should there be an exemption for frozen poultry, which I fully approve of, which is badly needed, and the Department of Agriculture so indicated, but what is the difference between frozen poultry or frozen seafood and frozen berries and frozen vegetables? The Department of Agriculture is making a full study of this matter. The data has been brought in, but it has not been evaluated. Within the next 30 days I anticipate they will make some report about frozen vege-

tables and frozen fruits, the same as they have made about frozen fish and frozen poultry.

I sincerely ask you not to legislate in this big measure something that is rather trivial as far as this act is concerned but might be very far-reaching as far as an important segment of our agricultural and food processing world is concerned.

Mr. Chairman, I hope you will support my amendment.

Mr. HARRIS. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments to the bill close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. HARRIS. Mr. Chairman, the committee has considered this problem that the amendment refers to. I think we recognize it is a rather important matter. It is one that we have undertaken to resolve in a way that would be in the best interests of the industry involved as well as of the transportation system and the people of this country. I feel that the consideration that has been given to this problem by this committee impels me to ask the House to disapprove the amendment offered by the gentleman from Maryland, and I ask for a vote.

Mr. GRIFFIN. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Maryland [Mr. MILLER]. I would like to caution many of the Members of the House who come from agricultural areas and who have in their districts small plants engaged in the processing of fruits and vegetables, that they may not realize how seriously this bill affects agricultural marketing and their constituents.

As the gentleman from Maryland [Mr. MILLER] has said, there has been an exemption provided under the Motor Carrier Act for agricultural commodities. This bill will take that exemption away to the extent that it applies to frozen fruits, berries and vegetables.

I should like respectfully to ask the Chairman of the committee if he can possibly explain why the exemption for frozen poultry and frozen fish should be retained in the bill—while the same bill takes away the exemption for frozen fruits and vegetables. I should like to call the attention of the committee to the fact that the Department of Agriculture is violently opposed to this change in the law proposed in this bill, and that a study is now being made by the Department of Agriculture on this very subject. It would seem that we should at least wait until that study is completed.

Mr. Chairman, I respectfully urge the committee to adopt the amendment and thereby retain the exemption. I would ask the Chairman to reply to my inquiries, if he will.

Mr. HARRIS. Mr. Chairman, to answer the gentleman's question, it was necessary to solve this problem some way. The only way we could do it would be to take what the Interstate Commerce Commission had determined should be

the exemption and chop it off right there, with the exception of the amendments that have been adopted here. That is precisely the reason; because there are so many of these things, it had gone so far beyond what was ever intended by the Congress, we had to use some kind of formula, and this was the formula that was used.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland [Mr. MILLER].

The question was taken; and on a division (demanded by Mr. MILLER of Maryland) there were ayes 56, noes 102.

So the amendment was rejected.

Mr. GUBSER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GUBSER: On page 12, line 1, strike out line 1 and insert "frozen fruits in carload lots, frozen berries in carload lots, frozen vegetables in carload lots."

Mr. GUBSER. Mr. Chairman, I do not relish the position I am placed in this afternoon but I am paid \$22,500 a year to represent the Tenth District of California. The frozen food industry, one of the largest industries in that district, will not consider the fact that it is Friday afternoon and excuse me for not trying to right what will be a grievous wrong.

This is not a crippling amendment; in fact, all it does is help a crippled industry to get on its feet. The railroads are not at all interested in refrigerated shipments in less than carload lots, so it will not hurt the railroads.

All this does is restore the existing exemption for frozen fruits, berries, and vegetables in less than carload lots. It does not do anything about carload lots. Would you like it if you were in business and had your capital invested in a frozen food plant, and day after day to your desk there came orders from west of Chicago—I am speaking of California now—for less than carload lots and you had to turn those orders down because you had no means of shipping them?

Let me tell you that when the exemption was not in existence I appealed to the Interstate Commerce Commission repeatedly, applications were made repeatedly, and not one single franchise was offered for less than carload lots; and the frozen food shippers in the Tenth District of California can still not accept those orders.

If you do not adopt this amendment, I maintain that the attitude of the Interstate Commerce Commission will remain the same. There will be no new franchises for less than carload shipments, and we will continue to turn down this business which is so very much needed by a very sick industry at this time.

I would appreciate your "aye" vote, because it will not hurt the railroads.

The CHAIRMAN. The Chair recognizes the gentleman from Arkansas [Mr. HARRIS] to close debate.

Mr. HARRIS. Mr. Chairman, as the Chairman has just said, we are closing debate on this important legislation. May I take this occasion to thank the members of this committee, particularly

the members of our Committee on Interstate and Foreign Commerce, who have given so much of their time and effort. I also thank my distinguished colleagues for the fine compliment they have paid me this afternoon, which I doubt very seriously I deserve.

The gentleman has offered an amendment along the same lines as the one we just voted down, but the amendment offered here has to do with certain types of frozen foods. Why, after this type of product has gone through processing, is it entitled to consideration that other processed foods and commodities are not entitled to?

The gentleman says that transportation facilities will be cut off if his amendment does not pass. That is not so. The bill provides for grandfather rights so those common or contract carriers by motor vehicle which are now engaged in the transportation of these commodities. They will be permitted to continue the service they are now performing. Therefore, this industry would not be hindered or hampered in any way.

I ask this Committee to consider all these problems and to try to meet them for the best interests of the American people who are to be served thereby, and to try to improve our transportation system.

Mr. Chairman, I ask that this amendment be voted down, too.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. GUBSER].

The amendment was rejected.

Mr. ADAIR. Mr. Chairman, it is essential that a strong railway system be maintained in this country. We have discovered that it is necessary in time of peace and vitally essential in time of war. For too long now, our regulation of the railroads has not kept pace with developments of a rapidly changing world. Therefore, it is desirable to support this legislation.

Provided with proper legislative authority, the railways can then proceed to work out their own salvation. I think the legislation here under consideration gives the necessary authority and incentive to this important segment of our economy.

Many people are concerned with the well-being of our railroads. Of course, everyone in this country is indirectly; more directly involved are employees, management, stockholders, suppliers and users of these lines. Their interest and well-being must and are being considered.

While this legislation is not the whole answer to the solution of the railroads' plight, it is a long step in the right direction and I think should be supported.

Mr. BREEDING. Mr. Chairman, I should like to register my approval of the bill H. R. 12832, which would amend the Interstate Commerce Act in order to strengthen and improve our Nation's common carrier surface transportation system so that it may better fulfill its role in meeting the transportation needs of the Nation's expanding economy and the requirements of national defense.

The measure is designed to aid the country's surface transportation network. I hope it will work out to the satisfaction of all concerned with aid for our transportation system.

Mr. Chairman, I believe that most carriers are in favor of the measure and have ironed out any existing differences. I support its passage.

Mr. AVERY. Mr. Speaker, I wish to again voice my support of the repeal of the 3 percent Federal excise tax on freight transportation.

It is common knowledge that one of the most vital of our industries, the railroads, is faced with a serious economic crisis. The plight of the railroads is of importance to the welfare of our Nation's business. It is obvious the repeal of this wartime excise tax will help to give the railroads an opportunity to eliminate their financial problems.

In addition, the other common carriers can improve their business activities by the removal of the tax.

This tax tends to weaken our national defense establishment since our transportation system is the backbone of our country's defense.

It represents a pyramiding tax burden upon the taxpayer. Its elimination will serve as a stimulant to the general economy. All segments of business are affected by commerce.

To repeal this wartime excise tax will be of vital importance to the farmers of Kansas and the movement of their commodities to market.

I believe that elimination of this burden on freight transportation will in the end result be of benefit to the taxpayer. The loss of revenue is minor compared to the potential increase in economic activity resulting in better job security and in improved employment opportunities for the entire transportation industry.

Mr. KEATING. Mr. Chairman, I rise in support of this rule and in support of the legislation embodied in H. R. 12832. It is essential that we take many of the steps made possible by this measure in order to alleviate the plight of our railroads.

No single assets of our Nation is more vital to our security and the future prosperity of the United States than our railroads. We have the largest system in the world, but unless action is taken soon, it may deteriorate under our very eyes.

There should be no question about the need for aiding our railroads at this time. On every side there are manifestations of the slow but sure destruction of this vital means of transportation. It has been brought home forcefully to me by presentations by numerous groups in my district and in my State.

The measure reported by the committee is a studied program evolved after several years of investigation. I agree with some of my colleagues in their misgivings about certain specific provisions of this measure, but I am convinced that its overall objectives are sound. And I feel the need is so pressing that it should be enacted into law.

At a time when we must bend every effort to maintain our economy and our defenses on a high and even keel, it

would be foolhardy to ignore the problems of the railways. If we remain mute, we may shortly be in the position of not only cutting the lifeblood of the railways, but in the long run of strangling our economy and ourselves.

It is absolutely essential that the railroads keep running. This bill represents a reasonably sound way to accomplish that. It deserves our approval.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose, and the Speaker having resumed the chair, Mr. DAVIS of Tennessee, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H. R. 12832) to amend the Interstate Commerce Act so as to strengthen and improve the national transportation system, and for other purposes, pursuant to House Resolution 608, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gross.

The question is on the amendments.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. O'HARA of Minnesota. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 348, nays 2, not voting 80, as follows:

[Roll No. 111]

YEAS—348

Abernethy	Bow	Cretella
Adair	Boykin	Cunningham,
Addonizio	Boyle	Iowa
Albert	Bray	Cunningham,
Alexander	Breeding	Nebr.
Alger	Brooks, La.	Curtin
Allen, Calif.	Brooks, Tex.	Curtis, Mo.
Allen, Ill.	Broomfield	Davis, Tenn.
Andersen,	Brown, Ga.	Dawson, Ill.
H. Carl	Brown, Mo.	Dawson, Utah
Andrews	Brown, Ohio	Delaney
Arends	Brownson	Dennison
Ashley	Broyhill	Dent
Ashmore	Budge	Denton
Auchincloss	Burleson	Derounlan
Avery	Bush	Devereux
Ayres	Byrd	Diggs
Balley	Byrne, Ill.	Dingell
Baker	Byrne, Pa.	Dixon
Baldwin	Byrnes, Wis.	Dollinger
Baring	Canfield	Donohue
Barrett	Cannon	Dooley
Bates	Carnahan	Dorn, N. Y.
Baumhart	Carrigg	Dorn, S. C.
Beamer	Cederberg	Dowdy
Beckworth	Chamberlain	Doyle
Belcher	Chelf	Durham
Bennett, Fla.	Chenoweth	Dwyer
Bennett, Mich.	Chiperfield	Elliott
Berry	Christopher	Everett
Betts	Church	Evins
Blatnik	Clark	Fallon
Bilitch	Clenvenger	Farbsteln
Boggs	Coad	Fascell
Boland	Coffin	Feighan
Bolling	Coiller	Fenton
Bolton	Cooley	Fisher
Bonner	Corbett	Flynt
Bosch	Coudert	Fogarty

Forand	Landrum	Roberts
Ford	Lane	Robison, N. Y.
Forrester	Lankford	Robison, Ky.
Fountain	LeCompte	Rodino
Frazier	Lennon	Rogers, Fla.
Frelinghuysen	Lesinski	Rogers, Mass.
Friedel	Libonati	Rogers, Tex.
Fulton	Lipscomb	Rooney
Garmatz	McCormack	Rutherford
Gary	McCulloch	Santangelo
Gathings	McDonough	Saund
Gavin	McFall	Saylor
George	McGovern	Schenck
Granahan	McGregor	Scherer
Grant	McIntosh	Schwengel
Gray	McMillan	Scott, N. C.
Green, Oreg.	McVey	Scott, Pa.
Green, Pa.	Macdonald	Sclivner
Griffin	Machrowicz	Scudder
Griffiths	Mack, Ill.	Seelye-Brown
Gross	Mack, Wash.	Selden
Gubser	Madden	Sheehan
Hagen	Magnuson	Shelley
Haley	Mahon	Sheppard
Halleck	Mailiard	Sieminski
Harden	Marshall	Sikes
Hardy	Matthews	Siler
Harris	Meador	Simpson, Ill.
Harrison, Nebr.	Merrow	Simpson, Pa.
Harrison, Va.	Metcalf	Sisk
Harvey	Michel	Smith, Calif.
Haskell	Miller, Calif.	Smith, Kans.
Healey	Miller, Md.	Smith, Miss.
Hemphill	Mills	Smith, Va.
Henderson	Minshall	Spence
Herlong	Mitchell	Springer
Heslton	Morgan	Staggers
Hess	Morrison	Stauffer
Hiestand	Moss	Sullivan
Hill	Mumma	Taber
Hoeven	Murray	Taylor
Hoffman	Natcher	Teague, Tex.
Holland	Neal	Teller
Holmes	Nicholson	Tewes
Holt	Nimitz	Thomas
Holtzman	Nix	Thompson, La.
Horan	Norblad	Thompson, N. J.
Hosmer	O'Brien, Ill.	Thompson, Tex.
Huddleston	O'Brien, N. Y.	Thomson, Wyo.
Hull	O'Hara, Ill.	Tollefson
Hyde	O'Hara, Minn.	Tuck
Ikard	O'Konski	Ullman
Jackson	O'Neill	Utt
Jarman	Ostertag	Vanik
Jennings	Passman	Van Pelt
Jensen	Patman	Van Zandt
Johansen	Patterson	Vinson
Johnson	Pelly	Vorvys
Jonas	Perkins	Vursell
Jones, Ala.	Pfost	Walter
Jones, Mo.	Philbin	Watts
Judd	Pilcher	Weaver
Karsten	Pillion	Westland
Kearns	Poage	Wharton
Keating	Poff	Whitener
Kee	Polk	Widnall
Kelly, N. Y.	Porter	Wier
Kilburn	Powell	Wigglesworth
Kilday	Price	Willis
Kilgore	Quile	Wilson, Ind.
King	Rabaut	Withrow
Kirwan	Ray	Wolverton
Kitchin	Reed	Wright
Knox	Rees, Kans.	Yates
Knutson	Reuss	Young
Krueger	Rhodes, Pa.	Younger
Lafore	Riley	Zablocki
Laird	Rivers	Zelenko

NAYS—2

Osmer Whitten

NOT VOTING—80

Abbitt	Engle	McIntire
Anderson,	Fino	Martin
Mont.	Flood	Mason
Anfuso	Glenn	May
Aspinall	Gordon	Miller, Nebr.
Barden	Gregory	Miller, N. Y.
Bass, N. H.	Gwinn	Montoya
Bass, Tenn.	Hale	Moore
Becker	Hays, Ark.	Morano
Bentley	Hays, Ohio	Morris
Buckley	Hebert	Moulder
Burdick	Hillings	Multer
Celler	Hollfield	Norrell
Colmer	James	Preston
Cramer	Jenkins	Prouty
Curtis, Mass.	Kean	Radwan
Dague	Kearney	Rains
Davis, Ga.	Keogh	Reece, Tenn.
Dellay	Kluczynski	Rhodes, Ariz.
Dies	Latham	Riehlman
Eberharter	Loser	Robeson, Va.
Edmondson	McCarthy	Rogers, Colo.

Roosevelt
Sadlak
St. George
Shuford
Steed

Talle
Teague, Calif.
Thornberry
Trimble
Udall

Wainwright
Williams, Miss.
Williams, N. Y.
Wilson, Calif.
Winstead

So the bill was passed.

The Clerk announced the following pairs:

Mr. Barden with Mr. Bass of New Hampshire.

Mr. Loser with Mr. Becker.
Mr. McCarthy with Mr. Bentley.
Mr. Keogh with Mr. Glenn.
Mr. Hébert with Mr. Kean.
Mr. Holifield with Mrs. St. George.
Mr. Hays of Arkansas with Mr. Fino.
Mr. Kluczynski with Mr. Moore.
Mr. Hays of Ohio with Mr. Morano.
Mr. Gregory with Mr. Cramer.
Mr. Anderson of Montana with Mr. Prouty.
Mr. Colmer with Mr. Dague.
Mr. Dies with Mr. Wainwright.
Mr. Engle with Mr. Talle.
Mr. Gordon with Mr. Teague of California.
Mr. Norrell with Mr. Miller of Nebraska.
Mr. Steed with Mr. Latham.
Mr. Shuford with Mr. McIntire.
Mr. Bass of Tennessee with Mr. Curtis of Massachusetts.

Mr. Anfuso with Mr. Sadlak.
Mr. Aspinall with Mr. Miller of New York.
Mr. Buckley with Mr. Hale.
Mr. Celler with Mr. Gwinn.
Mr. Davis of Georgia with Mr. Wilson of California.

Mr. Edmondson with Mr. Mason.
Mr. Eberharter with Mr. Kearney.
Mr. Morris with Mr. Hillings.
Mr. Walter with Mr. Rhodes of Arizona.
Mr. Moulder with Mr. James.
Mr. Williams of Mississippi with Mr. Jenkins.

Mr. Thornberry with Mr. May.
Mr. Trimble with Mr. Williams of New York.
Mr. Winstead with Mr. Riehlman.
Mr. Rogers of Colorado with Mr. Reece of Tennessee.

Mr. Roosevelt with Mr. Burdick.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND REMARKS

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks in the body of the Record prior to the vote on the transportation bill.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. McGown, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H. J. Res. 640. Joint resolution making temporary appropriations for the fiscal year 1959, providing for increased pay costs for the fiscal year 1958, and for other purposes.

CORRECTION OF ROLL CALL

Mr. BAILEY. Mr. Speaker, on roll call No. 109 taken earlier today, I am not recorded. I was present and voted

"yea." I ask unanimous consent that the permanent Record and the Journal be corrected accordingly.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

CORRECTION OF THE RECORD

Mr. PHILBIN. Mr. Speaker on page A5389 of the CONGRESSIONAL RECORD in my remarks on the reciprocal trade agreements in the third and fourth paragraphs, a typographical error occurred in setting forth 2,650,000 instead of 682,000 and I ask unanimous consent that the permanent Record be appropriately corrected.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

THE LATE JAMES L. McCONAUGHY, JR.

(Mr. MORANO asked and was given permission to extend his remarks at this point in the Record.)

Mr. MORANO. Mr. Speaker, I was shocked and saddened this morning to learn of the tragic airplane crash at Westover Air Base in Massachusetts which took the lives of 15 persons, including 6 newsmen.

Among the journalists who died in this accident was one well-known and respected on Capitol Hill and one of whom we in the Connecticut delegation have been especially proud. He is James L. McConaughy, Jr., chief of the Washington bureau for Time and Life magazines.

Jim McConaughy covered the Hill from 1951 to 1957 as congressional and political reporter for Time. He was a trusted, respected, and highly knowledgeable expert, with a boundless number of friends. In September last year he was promoted to bureau chief, but even with his new responsibilities, he managed to get back to the Hill whenever he could.

Jim McConaughy was the son of a great Governor of Connecticut, the late Dr. James L. McConaughy, who was also a friend and associate of mine. The son conducted himself throughout his all-too-short life in a way that would have made his father proud had he lived on to see Jim's career develop.

Jim McConaughy was born in Brunswick, Maine, August 26, 1915. He was graduated from Deerfield Academy in 1932 and from Wesleyan University in Connecticut—where his father was once president—in 1936. He received an Honorary M. A. at Wesleyan in 1956. He was a Phi Beta Kappa. He started his journalism career as a police reporter for the Washington Post in 1937 and 1938, joined Time, Inc., in 1938, and worked as a reporter and writer in New York, Chicago, Ottawa, and Seattle. During the war he served in the Philippines and North China as a captain in the Marine Corps Air Intelligence.

Jim was the father of four fine children. To his bereaved wife and family in particular, and to his universe of friends and associates in general, his untimely death is a tragic loss. I know all

of the Members of this body will want to join in expressing the sense of sorrow and loss that we all feel.

(Mr. SADLAK asked and was given permission to extend his remarks at this point in the Record.)

Mr. SADLAK. Mr. Speaker, I wish to associate myself with the remarks of my distinguished colleague from the Fourth District of Connecticut [Mr. MORANO], and in the grief which has overcome all of us emanating from this morning's report of the 15 persons, including 6 newsmen, who were killed in the Westover Field, Mass., takeoff.

During the years that Jim McConaughy covered Capitol Hill, it also was my pleasure to infrequently chat with him in the Speaker's lobby about the news of the day, but invariably our conversations ended about our families since his father was a well-known figure in Connecticut having been president of Wesleyan University for some 19 years and Governor of Connecticut and known nationally for his heretofore unreported activity in behalf of our Government during World War II.

A week ago Tuesday, I saw Jim's mother and his sister Phoebe at the Republican State Convention and they, as on previous occasions, inevitably got around to talking about Jim's activities in Washington and I always deemed it a genuine pleasure to give assurances of his continued progress and of the admiration that the Members of the House had for his ability, impartiality, and generally being a grand fellow.

The airborne commander of the flight who also perished in the accident was Brig. Gen. Donald W. Saunders, Commander of the 57th Air Division, Westover AFB. He was a distinguished military man who graduated from the United States Military Academy in June 1938, and during World War II flew 25 combat missions totaling 350 combat hours in the Pacific theater. He held the Distinguished Flying Cross with 2 Oak Leaf Clusters, the Bronze Star, and the Air Medal with 2 Oak Leaf Clusters. General Saunders was well-known as a speaker on the defense of the northeast area and one of his last appearances in this capacity was before the Connecticut Public Expenditures Council's annual meeting on June 12, 1958. His loss and the loss of all his men is a serious blow to our Strategic Air Command, Eighth Air Force, and I am sure I speak for all of us in extending sympathy to the families of each of the military and to the families of the newspapermen who were accompanying them on what no doubt would have been the composite part of new record-breaking nonstop performances of which the preceding planes can at this very moment boast.

VETERANS—EQUAL CONSIDERATION

(Mr. MCGREGOR asked and was given permission to extend his remarks at this point in the Record.)

Mr. MCGREGOR. Mr. Speaker, the Nation's veterans, together with their families, comprise more than 40 percent of the total population of the

improving that nation's state of training and operational readiness;

At page 2, line 18, after the word "weapons" strike out the comma and insert in lieu thereof "and atomic weapons systems,"

And the Senate agree to the same.

That the House recede from its disagreement to the amendments of the Senate numbered (3) and (4), and agree to the same.

CARL T. DURHAM,
CHET HOLIFIELD,
MELVIN PRICE,
JAMES E. VAN ZANDT,
CRAIG HOSMER,

Managers on the Part of the House.

CLINTON P. ANDERSON,
JOHN O. PASTORE,
ALBERT GORE,
BOURKE B. HICKENLOOPER,
JOHN W. BRICKER,

Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 12716) to amend the Atomic Energy Act of 1954, as amended, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The Senate passed the House bill with four amendments, Nos. (1) and (2) pertaining to section 91c and Nos. (3) and (4) pertaining to section 144b of the Atomic Energy Act. The committee of conference has reached agreement on all matters under consideration. The following statement explains the differences between the House bill and the agreement of the conference.

AMENDMENTS TO SECTION 91C OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

The House, when it considered H. R. 12716 as reported out by the Joint Committee on Atomic Energy, retained the language contained in the bill as it pertains to amending section 91 of the Atomic Energy Act of 1954, as amended. That language beginning on line 6, page 1, and continuing through line 9, page 3, provides:

"(c) The President may authorize the Commission or the Department of Defense, with the assistance of the other, to cooperate with another nation and, notwithstanding the provisions of section 57, 62, or 81, to transfer by sale, lease, or loan to that nation, in accordance with terms and conditions of a program approved by the President—

"(1) nonnuclear parts of atomic weapons to improve that nation's state of training and operational readiness;

"(2) utilization facilities for military applications; and

"(3) source, byproduct, or special nuclear material for research on, development of, production of, or use in utilization facilities for military applications; and

"(4) source, byproduct, or special nuclear material for research on, development of, or use in atomic weapons. *Provided, however,* That the transfer of such material to that nation is necessary to improve its atomic weapon design, development, or fabrication capability: *And provided further,* That such nation has made substantial progress in the development of atomic weapons, whenever the President determines that the proposed cooperation and each proposed transfer arrangement for the nonnuclear parts of atomic weapons, utilization facilities or source, byproduct, or special nuclear material will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation is participating with the United States pursuant to an international arrangement by substantial and material contributions to the

mutual defense and security: *Provided, however,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 123: *And provided further,* That if an agreement for cooperation arranged pursuant to this subsection provides for transfer of utilization facilities for military applications the Commission, or the Department of Defense with respect to cooperation it has been authorized to undertake, may authorize any person to transfer such utilization facilities for military applications in accordance with the terms and conditions of this subsection and of the agreement for cooperation."

The Senate retained the language of clauses (1), (2), and (3) but struck out the proviso in clause (4) and inserted a new proviso to apply to both clause (1) and clause (4) to read as follows: "*Provided,* That the transfer of any parts described in clause (1) or any material described in clause (4) to any such nation is necessary to improve its atomic weapon design, development, or fabrication capability and provided that nation has made substantial progress in the development of atomic weapons."

The conference retains clause (4) as originally contained in the bill. It modified clause (1) to read as follows:

"(1) nonnuclear parts of atomic weapons provided that such nation has made substantial progress in the development of atomic weapons, and other nonnuclear parts of atomic weapons systems involving Restricted Data provided that such transfer will not contribute significantly to that nation's atomic weapon design, development, or fabrication capability; for the purpose of improving that nation's state of training and operational readiness."

The conference agreement, therefore, makes provision for the transfer of two distinctly different types of nonnuclear parts. One type, the nonnuclear parts of atomic weapons, relates to the integral components of the weapon itself which could only be transferred to those nations that have made substantial progress in the development of atomic weapons. The other type relates to nonnuclear parts of atomic weapons systems which are not integral to the weapon itself but pertain to various kinds of equipment involving restricted data to make possible the operational use and maintenance of the weapon, such as adaption kits. This latter category of nonnuclear parts relating to the atomic weapons systems is not as sensitive as the first category of nonnuclear parts and would not disclose internal design information of the weapon. This type, under the new language, may be transferred to a nation provided that the transfer will not contribute significantly to that nation's atomic weapon design, development, or fabrication capability.

The transfer of either type must be for the purpose of improving the recipient nation's state of training and operational readiness. Authorization for such transfer would have to comply with all other conditions, provisions, and limitations contained in the bill as passed.

As a technical amendment, the words "or nonnuclear parts of atomic weapons systems" were inserted on page 2 at line 18 of H. R. 12716 to reflect the modification of clause (1) as recommended out by the conference.

AMENDMENTS TO SECTION 144b OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

The House, when it considered H. R. 12716, as reported out by the Joint Committee on Atomic Energy, retained section 6 of the bill reading as follows:

"SEC. 6. Section 144 b. of the Atomic Energy Act of 1954, as amended, is amended to read as follows:

"b. The President may authorize the Department of Defense, with the assistance of

the Commission, to cooperate with another nation or with a regional defense organization to which the United States is a party, and to communicate to that nation or organization such Restricted Data (including design information) as is necessary to—

"(1) the development of defense plans;

"(2) the training of personnel in the employment of and defense against atomic weapons and other military applications of atomic energy;

"(3) the evaluation of the capabilities of potential enemies in the employment of atomic weapons and other military applications of atomic energy;

"(4) the development of compatible delivery systems for atomic weapons; and

"(5) other military applications of atomic energy, except that with respect to this subcategory, Restricted Data concerning research, development, design, or fabrication of atomic weapons, or concerning research, development, or design of military reactors shall not be communicated;

whenever the President determines that the proposed cooperation and the proposed communication of the Restricted Data will promote and will not constitute an unreasonable risk to the common defense and security, while such other nation or organization is participating with the United States pursuant to an international arrangement by substantial and material contributions to the mutual defense and security: *Provided, however,* That the cooperation is undertaken pursuant to an agreement entered into in accordance with section 123."

The Senate by amendments (3) and (4) deleted subsection 144b clause (5).

The conference accepted these two amendments and thus eliminates clause (5) from section 144b.

In eliminating clause (5) of subsection 144b it is with the understanding and the intent that restricted data pertaining to the military use of isotopes for medical purposes and restricted data for defense against radiological warfare described during the hearings, could be transferred under authorization contained in subsections 144b (1) and (2), and other provisions of the act. Clause (5) was therefore considered unnecessary.

In reaching agreement the conference received testimony from technical experts of the Department of Defense and the Atomic Energy Commission which assisted the conference in arriving at its agreement.

CARL T. DURHAM,
CHET HOLIFIELD,
MELVIN PRICE,
JAMES E. VAN ZANDT,
CRAIG HOSMER,

Managers on the Part of the House.

Mr. DURHAM. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (H. R. 12716) to amend the Atomic Energy Act of 1954, as amended.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

Mr. ALLEN of Illinois. Mr. Speaker, reserving the right to object, I assume the gentleman has cleared this with Members on the minority side.

Mr. DURHAM. With the gentleman from Massachusetts [Mr. MARTIN] and with the gentleman from Pennsylvania [Mr. VAN ZANDT].

Mr. ALLEN of Illinois. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. DURHAM. Mr. Speaker, I ask unanimous consent that the statement on the part of the managers of the House be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the statement.

Mr. DURHAM. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

TRANSPORTATION ACT OF 1958

Mr. HARRIS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill S. 3778, to amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That this act may be cited as the "Transportation Act of 1958."

SEC. 2. Section 1 of the Interstate Commerce Act, as amended, is amended (1) by inserting in subparagraph (a) of paragraph (2) thereof, after the word "aforesaid" and before the semicolon following that word, the words "except as otherwise provided in this part" and (2) by striking out the period at the end of the proviso in subparagraph (a) of paragraph (17) thereof and inserting in lieu thereof the following "and except as otherwise provided in this part."

SEC. 3. (a) The first sentence of paragraph (4) of section 13 of the Interstate Commerce Act, as amended, is amended to read as follows:

"(4) Whenever in any such investigation the Commission, after full hearing, finds that any such rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against, or undue burden on, interstate or foreign commerce (which the Commission may find without considering in totality the operations or results thereof of any carrier, or group or groups of carriers wholly within any State), which is hereby forbidden and declared to be unlawful, it shall prescribe the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner, as, in its judgment, will remove such advantage, preference, prejudice, discrimination, or burden: *Provided*, That upon the filing of any petition authorized by the provisions of paragraph (3) hereof to be filed by the carrier concerned, the Commission shall forthwith institute an investigation as aforesaid into the lawfulness of such rate, fare, charge, classification, regulation, or practice (whether or not theretofore considered by any State agency or authority and without regard to the pendency before any State agency or authority of any proceeding relating thereto) and shall give special expedition to the hearing and decision therein."

(b) Section 13 of the Interstate Commerce Act, as amended, is amended by inserting after paragraph (4) thereof a new paragraph (5) as follows:

"(5) In any proceeding before the Commission involving an investigation of or authorization or permission for a general adjustment in rates, fares, or charges, or any of them, of carriers subject to this part for the transportation of property or passengers, or both, in interstate commerce throughout, or substantially throughout, the United States, or one or more of the three major rate classification territories thereof (Official, Western, or Southern), any such carrier or carriers parties thereto may by petition seek authority or permission of the Commission for a comparable adjustment of rates, fares, or charges for the transportation of like property or passengers wholly within an individual State or individual States. If, in such proceeding, the Commission finds (as it is hereby authorized to do) that authorizing or permitting an adjustment in interstate rates, fares, or charges without authorizing or permitting a comparable adjustment in intrastate rates, fares, or charges would cause, or create a circumstance of, advantage, preference, prejudice, discrimination or burden declared in paragraph (4) of this section to be unlawful, the Commission shall, incident to any adjustment it may authorize or permit in such interstate rates, fares, or charges, authorize or permit a comparable adjustment in such intrastate rates, fares, or charges. Pursuant to such authorization the said carrier or carriers, upon making any adjustment so authorized or permitted by the Commission in such interstate rates, fares, or charges may without further authority make a comparable adjustment in such intrastate rates, fares, or charges, and adjustments so made in intrastate rates, fares, or charges shall be observed while continued in effect by the said carrier or carriers, the law of any State or the decision or order of any State authority to the contrary notwithstanding."

SEC. 4. The Interstate Commerce Act, as amended, is amended by inserting after section 13 thereof a new section 13a as follows:

"SEC. 13a. A carrier or carriers subject to this part, if their rights with respect to the discontinuance or change, in whole or in part, of the operation or service of any train or ferry engaged in the transportation of passengers or property in interstate or foreign commerce, or of the operation or service of any station, depot or other facility where passengers or property are received for transportation in interstate or foreign commerce, are subject to any provision of the constitution or statutes of any State or any regulation or order of (or are the subject of any proceeding pending before) any court or an administrative or regulatory agency of any State, shall be required prior to filing with the Commission to mail to the Governor of each State in which such train, ferry, station, depot or other facility is operated, and post in every station, depot or other facility directly affected thereby, notice at least 30 days in advance of any such proposed discontinuance or change. The carrier or carriers filing such notice may discontinue or change any such operation or service pursuant to such notice except as otherwise ordered by the Commission pursuant to this section, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any court or State authority to the contrary notwithstanding. Upon the filing of such notice the Commission shall have authority during said 30 days' notice period, either upon complaint or upon its own initiative without complaint, to enter upon an investigation of the proposed discontinuance or change. Upon the institution of such investigation, the Commission, by order served upon the carrier or carriers affected thereby at least 10 days prior to the day on which such discontinuance or change would otherwise become effective, may re-

quire such train or ferry to be continued in operation or service, in whole or in part, pending hearing and decision in such investigation, but not for a longer period than 4 months beyond the date when such discontinuance or change would otherwise have become effective. If, after hearing in such investigation, whether concluded before or after such discontinuance or change has become effective, the Commission finds that the operation or service of such train or ferry is required by public convenience and necessity and that such operation or service will not result in a net loss therefrom to the carrier or carriers and will not otherwise unduly burden interstate or foreign commerce, the Commission may by order require the continuance or restoration of operation or service of such train or ferry, in whole or in part, for a period not to exceed 1 year from the date of such order. The provisions of this section shall not supersede the laws of any State or the orders or regulations of any administrative or regulatory body of any State applicable to such discontinuance or change unless notice as in this section provided is filed with the Commission. On the expiration of an order by the Commission after such investigation requiring the continuance or restoration of operation or service, the jurisdiction of any State as to such discontinuance or change shall no longer be superseded unless the procedure provided by this section shall again be invoked by the carrier or carriers."

SEC. 5. Section 15a of the Interstate Commerce Act, as amended, is amended by inserting after paragraph (2) thereof a new paragraph (3) as follows:

"(3) In a proceeding involving competition between carriers of different modes of transportation subject to this act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this act."

SEC. 6. The Interstate Commerce Act, as amended, is hereby amended by inserting immediately after section 20c thereof the following new section:

"SEC. 20d. (1) It is the purpose of this section to aid common carriers by railroad subject to this part in rendering proper transportation service to the public by providing temporary financial assistance to them in obtaining funds to finance or refinance the acquisition or construction of equipment or additions and betterments for use in transportation service and in obtaining funds needed for operating expenses, working capital, and interest on existing obligations, all to the end of fostering the preservation and development of a national transportation system adequate to meet the needs of the commerce of the United States, of the postal service, and national defense.

"(2) In order to carry out the purpose declared in this section, the Commission, upon terms and conditions prescribed by it and consistent with the provisions of this section, may guarantee any lender, or trustee under a trust indenture or agreement for the benefit of the holders of any securities issued thereunder, by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan, discount, or advance, or on any commitment in connection therewith, which may be made for the purposes set forth in this section, except that there shall be no guarantee of a loan to be used in reduction of the principal of an obligation other than in connection with the refinancing of an equipment obligation: *Provided*, That in no event shall the aggregate of all loans guaran-

teed by the Commission, including unpaid interest, exceed \$700 million, of which no more than \$150 million may be loans for operating expenses and interest on existing obligations.

"(3) Any such carrier may, prior to December 31, 1960, make application to the Commission, in such form as the Commission may prescribe, requesting guaranty by the Commission as herein authorized and setting forth the amount and term of the loan to be guaranteed; the purpose of the loan and the use to which the proceeds therefrom will be applied; the inability of the applicant to obtain such funds on reasonable terms without such guaranty; the character and value of the security, if any, that the applicant will pledge as collateral for the loan; and that the loan is necessary or appropriate to effectuate the purpose of this section. The application shall be accompanied by statements showing in detail such facts as the Commission may require with regard to the situation of the applicant. The Commission shall give preference to and expedite the consideration of any such application.

"(4) No guaranty shall be made under this section—

"(A) unless the Commission is of the opinion that the proposed loan is necessary or appropriate to effectuate the purpose of this section;

"(B) unless the Commission is of the opinion that without such guaranty the applicant carrier would be unable to obtain necessary funds, on reasonable terms, for the purposes for which the loan is sought;

"(C) if the loan involved is at a rate of interest which, in the judgment of the Commission, is unreasonably high, or if the terms of such loan permit full repayment more than fifteen years after the date thereof;

"(D) unless the Commission is of the opinion that the prospective earning power of the applicant carrier, together with the character and value of the security pledged, if any, furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and reasonable protection to the United States;

"(E) unless the Commission is of the opinion that the applicant carrier is not in need of reorganization of its capital structure;

"(F) unless the applicant carrier agrees that it will declare no dividends on its capital stock as long as the loan remains unpaid.

"(5) The Commission may consent to the modification of the provisions as to rate of interest, time of payment of interest or principal, security, if any, or other terms and conditions of any guaranty which it shall have entered into pursuant to this section, or the renewal or extension of any such guaranty, whenever the Commission shall determine it to be equitable to do so.

"(6) Payments required to be made as a consequence of any guaranty by the Commission pursuant to the provisions of this section shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for the purpose of carrying out the provisions of this section.

"(7) The Commission shall prescribe and collect a guaranty fee in connection with each loan guaranteed under this section. Such fees shall not exceed such amounts as the Commission estimates to be necessary to cover the administrative costs in carrying out the provisions of this section. Sums realized from such fees shall be deposited in the Treasury as miscellaneous receipts.

"(8) (a) To permit it to make use of such expert advice and services as it may require in carrying out the provisions of this section, the Commission may use available services and facilities of departments and other agencies and instrumentalities of the Government, with their consent and on a reimbursable basis.

"(b) Departments, agencies, and instrumentalities of the Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this section.

"(9) Administrative expenses under this section shall be paid from appropriations made to the Commission for administrative expenses.

"(10) Except with respect to such applications as may then be pending, the authority granted by this section shall terminate at the close of December 31, 1960: *Provided*, That its provisions shall remain in effect thereafter for the purposes of guaranties made by the Commission."

SEC. 7. (a) Clause (6) of subsection (b) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a colon and the following: "*Provided*, That the word 'property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)' as used herein shall include property shown as 'Exempt' in the 'Commodity List' incorporated in ruling No. 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as 'not exempt': *Provided further, however*, That notwithstanding the preceding proviso the words 'property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)' shall not be deemed to include frozen fruits, frozen berries, or frozen vegetables and shall be deemed to include cooked or uncooked (including breaded) fish or shellfish, when frozen or fresh;"

(b) Unless otherwise specifically indicated therein, the holder of any certificate or permit heretofore issued by the Interstate Commerce Commission, or hereafter so issued pursuant to an application filed on or before the date on which this section takes effect, authorizing the holder thereof to engage as a common or contract carrier by motor vehicle in the transportation in interstate or foreign commerce of property made subject to the provisions of part II of the Interstate Commerce Act by paragraph (a) of this section, over any route or routes or within any territory, may without making application under that act engage, to the same extent and subject to the same terms, conditions and limitations, as a common or contract carrier by motor vehicle, as the case may be, in the transportation of such property, over such route or routes or within such territory, in interstate or foreign commerce.

(c) Subject to the provisions of section 210 of the Interstate Commerce Act, if any person (or its predecessor in interest) was in bona fide operation on January 1, 1958, over any route or routes or within any territory, as a common, contract, or exempt carrier engaged in the transportation of property by motor vehicle made subject to the provisions of part II of that act by paragraph (a) of this section, in interstate or foreign commerce, and has so operated since that time (or if engaged in furnishing seasonal service only, was in bona fide operation on January 1, 1958, during the season ordinarily covered by its operations and has so operated since that time), except in either instance as to interruptions of service over which such applicant or its predecessor in interest had no control, the Interstate Commerce Commission shall without further proceedings issue a certificate or permit, as the case may be, authorizing such operations if application therefor is made to the said Commission as provided in part II of the Interstate Commerce Act and within 120 days after the date on which this section takes effect.

Pending the determination of any such application, the continuance of such operation without a certificate or permit shall be lawful. Any carrier which on the date this section takes effect is engaged in an operation of the character specified in the foregoing provisions of this paragraph, but was not engaged in such operation on January 1, 1958, may, under such regulations as the Interstate Commerce Commission shall prescribe, if application for a certificate or permit is made to the said Commission within 120 days after the date on which this section takes effect, continue such operation without a certificate or permit pending the determination of such application in accordance with the provisions of part II of the Interstate Commerce Act.

SEC. 8. Subsection (c) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "nor shall any person in any other commercial enterprise transport property by motor vehicle in interstate or foreign commerce unless such transportation is incidental to, and in furtherance of, a primary business enterprise (other than transportation) of such person."

Mr. HARRIS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARRIS: Strike out all after the enacting clause and insert the provisions of the bill H. R. 12832 as passed as follows: "That this act may be cited as the 'Transportation Act of 1958.'"

"Amendment to Interstate Commerce Act, relating to loan guaranties"

"SEC. 2. The Interstate Commerce Act, as amended, is amended by inserting immediately after part IV thereof the following new part:

"PART V

"Purpose

"SEC. 501. It is the purpose of this part to provide for assistance to common carriers by railroad subject to this act to aid them in acquiring, constructing, or maintaining facilities and equipment for such purposes, and in such a manner, as to encourage the employment of labor and to foster the preservation and development of a national transportation system adequate to meet the needs of the commerce of the United States, of the postal service, and of the national defense.

"Definitions

"SEC. 502. For the purposes of this part—
"(a) The term "Commission" means the Interstate Commerce Commission.

"(b) The term "additions and betterments or other capital expenditures" means expenditures for the acquisition or construction of property used in transportation service, chargeable to the road, property, or equipment investment accounts, in the Uniform System of Accounts prescribed by the Interstate Commerce Commission.

"(c) The term "expenditures for maintenance of property" means expenditures for labor, materials, and other costs incurred in maintaining, repairing, or renewing equipment, road, or property used in transportation service chargeable to operating expenses in accordance with the Uniform System of Accounts prescribed by the Commission.

"Loan guaranties

"SEC. 503. In order to carry out the purpose declared in section 501, the Commission, upon terms and conditions prescribed by it and consistent with the provisions of this part, may guarantee in whole or in part any public or private financing institution, or trustee under a trust indenture or agreement for the benefit of the holders of any securities issued thereunder, by commitment

to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan, discount, or advance, or on any commitment in connection therewith, which may be made, or which may have been made, for the purpose of aiding any common carrier by railroad subject to this act in the financing or refinancing (1) of additions and betterments or other capital expenditures, made after January 1, 1957, or to reimburse the carrier for expenditures made from its own funds for such additions and betterments or other capital expenditures, or (2) of expenditures for the maintenance of property.

"Limitations

"SEC. 504. (a) No guaranty shall be made under section 503—

"(1) Unless the Commission is of the opinion that without such guaranty, in the amount thereof, the carrier would be unable to obtain necessary funds, on reasonable terms, for the purposes for which the loan is sought.

"(2) If the loan involved is at a rate of interest which, in the judgment of the Commission, is unreasonably high, or if the terms of such loan permit full repayment more than 15 years after the date thereof.

"(3) For any loan for expenditures for maintenance of property, if the principal of such loan, or the total of such principal and the unpaid principal of all other loans to the common carrier concerned for expenditures for maintenance of property guaranteed under this act, exceeds 50 percent of the aggregate amount charged in the accounts of said carrier for expenditures for maintenance of property during the calendar year next preceding the date of the application for such guaranty.

"(b) It shall be unlawful for any common carrier by railroad subject to this act to declare any dividend on its preferred or common stock while there is any principal or interest remaining unpaid on any loan to such carrier made for the purpose of financing or refinancing expenditures for maintenance of property of such carrier, and guaranteed under this part.

"Modifications

"SEC. 505. The Commission may consent to the modification of the provisions as to rate of interest, time or payment of interest or principal, security, if any, or other terms and conditions of any guaranty which it shall have entered into pursuant to this part, or the renewal or extension of any such guaranty, whenever the Commission shall determine it to be equitable to do so.

"Payment of guaranties; action to recover payments made

"SEC. 506. (a) Payments required to be made as a consequence of any guaranty by the Commission made under this part shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for the purpose of carrying out the provisions of this part.

"(b) In the event of any default on any such guaranteed loan, and payment in accordance with the guaranty by the United States, the Attorney General shall take such action as may be appropriate to recover the amount of such payments, with interest, from the defaulting carrier, carriers, or other persons liable therefor.

"Guaranty fees

"SEC. 507. The Commission shall prescribe and collect a guaranty fee in connection with each loan guaranteed under this part. Such fees shall not exceed such amounts as the Commission estimates to be necessary to cover the administrative costs of carrying out the provisions of this part. Sums realized from such fees shall be deposited in the Treasury as miscellaneous receipts.

"Assistance of departments or other agencies

"SEC. 508. (a) To permit it to make use of such expert advice and services as it may require in carrying out the provisions of this part, the Commission may use available services and facilities of departments and other agencies and instrumentalities of the Government, with their consent and on a reimbursable basis.

"(b) Departments, agencies, and instrumentalities of the Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this part.

"Administrative expenses

"SEC. 509. Administrative expenses under this part shall be paid from appropriations made to the Commission for administrative expenses.

"Termination of authority

"SEC. 510. The authority granted by this part shall terminate at the close of March 31, 1961, except that its provisions shall remain in effect thereafter for the purposes of guaranties made by the Commission prior to that time.

"Amendments to section 1 of Interstate Commerce Act

"SEC. 3. Section 1 of the Interstate Commerce Act, as amended, is amended (1) by inserting in subparagraph (a) of paragraph (2) thereof, after the word 'aforesaid' and before the semicolon following that word, a comma and the words 'except as otherwise provided in this part' and (2) by striking out the period at the end of the proviso in subparagraph (a) of paragraph (17) thereof and inserting in lieu thereof the following: 'and except as otherwise provided in this part.'

"New section 13a of Interstate Commerce Act

"SEC. 4. The Interstate Commerce Act, as amended, is amended by inserting after section 13 thereof a new section 13a, as follows:

"Discontinuance or change of certain operations or services

"SEC. 13a. (1) A carrier or carriers subject to this part, if their rights with respect to the discontinuance or change, in whole or in part, of the operation or service of any train or ferry engaged in the transportation of passengers or property in interstate, foreign and intrastate commerce, or any of them, are subject to any provision of the constitution or statutes of any State or any regulation or order of (or are the subject of any proceeding pending before) any court or an administrative or regulatory agency of any State, may, but shall not be required to, file with the Commission, mail to the governor of each State in which such train or ferry is operated, and post in every station, depot, or other facility served thereby, notice at least 30 days in advance of any such proposed discontinuance or change. The carrier or carriers filing such notice may discontinue or change any such operation or service pursuant to such notice except as otherwise ordered by the Commission pursuant to this section, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any court or State authority to the contrary notwithstanding. Upon the filing of such notice the Commission shall have authority during said 30 days' notice period, either upon complaint or upon its own initiative without complaint, to enter upon an investigation of the proposed discontinuance or change. Upon the institution of such investigation, the Commission, by order served upon the carrier or carriers affected thereby at least 10 days prior to the day on which such discontinuance or change would otherwise become effective, may require such train or ferry to be continued in operation or service, in

whole or in part, pending hearing and decision in such investigation, but not for a longer period than 4 months beyond the date when such discontinuance or change would otherwise have become effective. If, after hearing in such investigation, whether concluded before or after such discontinuance or change has become effective, the Commission finds that the operation or service of such train or ferry is required by public convenience and necessity and that such operation or service will not result in a net loss therefrom to the carrier or carriers and will not otherwise unduly burden interstate or foreign commerce, the Commission may by order require the continuance or restoration of operation or service of such train or ferry, in whole or in part, for a period not to exceed 1 year from the date of such order. The provisions of this section shall not supersede the laws of any State or the orders or regulations of any administrative or regulatory body of any State applicable to such discontinuance or change unless notice as in this section provided is filed with the Commission. On the expiration of an order by the Commission after such investigation requiring the continuance or restoration of operation or service, the jurisdiction of any State as to such discontinuance or change shall no longer be superseded unless the procedure provided by this section shall again be invoked by the carrier or carriers.

"(2) The provisions of this section shall not apply to the operations of or services performed by any carrier by railroad on a line of railroad located wholly within a single State.

"(3) The Commission, in cooperation with State utilities commissions, shall make a study of the passenger train deficit problem and report thereon to the Congress not later than June 30, 1959, together with such recommendations as the Commission deems to be necessary or appropriate."

"Amendment to section 15a of the Interstate Commerce Act

"SEC. 5. Section 15a of the Interstate Commerce Act, as amended, is amended by inserting after paragraph (2) thereof a new paragraph (3) as follows:

"(3) In a proceeding involving competition between carriers of different modes of transportation, subject to this act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this act."

"Amendment to section 203 (b) of Interstate Commerce Act

"SEC. 6. (a) Clause (6) of subsection (b) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a colon and the following: 'Provided, That the words "property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" as used herein shall include property shown as "Exempt" in the "Commodity List" incorporated in ruling No. 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as "Not exempt": Provided further, however, That notwithstanding the preceding proviso the words "property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" shall not be deemed to include frozen fruits, frozen ber-

ries, frozen vegetables, coffee, tea, cocoa or hemp, and wool imported from any foreign country or wool, cleaned or scoured, wool tops and nolls, or wool waste, carded but not spun, woven or knitted and shall be deemed to include fish or shellfish and fresh or frozen products thereof containing seafood as the basic ingredient, whether breaded, cooked or otherwise prepared (but not including fish and shellfish which have been treated for preserving, such as canned, smoked, salted, pickled, spiced, corned or kippered products).'

"(b) Unless otherwise specifically indicated therein, the holder of any certificate or permit heretofore issued by the Interstate Commerce Commission, or hereafter so issued pursuant to an application filed on or before the date on which this section takes effect, authorizing the holder thereof to engage as a common or contract carrier by motor vehicle in the transportation in interstate or foreign commerce of property made subject to the provisions of part II of the Interstate Commerce Act by paragraph (a) of this section, over any route or routes or within any territory, may without making application under that act engage, to the same extent and subject to the same terms, conditions and limitations, as a common or contract carrier by motor vehicle, as the case may be, in the transportation of such property, over such route or routes or within such territory, in interstate or foreign commerce.

"(c) Subject to the provisions of section 210 of the Interstate Commerce Act, if any person (or its predecessor in interest) was in bona fide operation on June 1, 1958, over any route or routes or within any territory, in the transportation of property for compensation by motor vehicle made subject to the provisions of part II of that act by paragraph (a) of this section, in interstate or foreign commerce, and has so operated since that time (or if engaged in furnishing seasonal service only, was in bona fide operation on June 1, 1958, during the season ordinarily covered by its operations and has so operated since that time), except in either instance as to interruptions of service over which such applicant or its predecessor in interest had no control, the Interstate Commerce Commission shall without further proceedings issue a certificate or permit, as the type of operation may warrant, authorizing such operations as a common or contract carrier by motor vehicle if application is made to the said Commission as provided in part II of the Interstate Commerce Act and within 120 days after the date on which this section takes effect. Pending the determination of any such application, the continuance of such operation without a certificate or permit shall be lawful. Any carrier which on the date this section takes effect is engaged in an operation of the character specified in the foregoing provisions of this paragraph, but was not engaged in such operation on June 1, 1958, may under such regulations as the Interstate Commerce Commission shall prescribe, if application for a certificate or permit is made to the said Commission within 120 days after the date on which this section takes effect, continue such operation without a certificate or permit pending the determination of such application in accordance with the provisions of part II of the Interstate Commerce Act.

"Amendment to section 203 (c) of Interstate Commerce Act

"SEC. 7. Subsection (c) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the period at the end thereof and inserting in lieu of such period a comma and the following: 'nor shall any person in connection with any other business enterprise transport property by motor vehicle in interstate or foreign commerce unless such transportation is

incidental to, and in furtherance of, a primary business enterprise (other than transportation) of such person.'"

The amendment was agreed to.

The bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

A similar House bill (H. R. 12832) was laid on the table.

Mr. HARRIS. Mr. Speaker, I move that the House insist on its amendment to the bill S. 3778 and ask for a conference with the Senate.

The motion was agreed to.

The SPEAKER. The Chair appoints the following conferees: Messrs. HARRIS, ROBERTS, STAGGERS, ROGERS of Texas, FRIEDEL, FLYNT, MACDONALD, WOLVERTON, O'HARA of Minnesota, HALE, SPRINGER, DEROUNIAN, and YOUNGER.

ADJOURNMENT UNTIL MONDAY NEXT

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CALENDAR WEDNESDAY BUSINESS

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the business in order on Calendar Wednesday of next week will be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

SIGNING OF ENROLLED BILLS

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the House until Monday next the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MINIMUM AGE RAISED FROM 40 TO 60 YEARS FOR CERTAIN GOVERNMENTAL EMPLOYMENT

The SPEAKER. Under previous order of the House the gentleman from Texas [Mr. BECKWORTH] is recognized for 10 minutes.

(Mr. BECKWORTH asked and was given permission to revise and extend his remarks.)

Mr. BECKWORTH. Mr. Speaker, I quote the pertinent part of a letter I received from Hon. Stephen S. Jackson, Deputy Assistant Secretary of Defense, which was written me June 9, 1958.

DEAR MR. BECKWORTH: At a recent hearing before the Davis subcommittee of the House Post Office and Civil Service Committee, you

questioned the late Assistant Secretary Francis regarding age limits for civil-service employment in the Department of Defense.

There are no maximum age limits for any noncompetitive civil-service positions in the Department of Defense, and the vast bulk of civilian positions in the Department are in the competitive civil service.

The 46-year-old woman to whom you referred undoubtedly applied at Barksdale Air Force Base, which is one of the recruiting points for Air Force overseas positions, for a teaching position in the Air Force overseas dependents schools.

Although younger women do tend as a group, to adapt more readily to the changes in living conditions which are involved in employment in foreign areas, it is recognized that many older women also can successfully make the adjustment. The Air Force plans, therefore, in recruiting for the 1959-60 school year to increase the age limit for overseas schoolteachers to 60.

We share your concern that qualified older workers not be denied opportunity for employment solely because of their age, and assure you that Department of Defense practices are to make fullest practicable use of older workers in jobs for which they qualify.

The lady referred to in the letter lost her husband. There are many such ladies in our land and they deserve to have employment opportunities. The same is true with reference to older men.

Also I quote some of my remarks on the floor of the House, August 16, 1957:

Mr. BECKWORTH. Mr. Speaker, on July 10, 1957, I placed in the CONGRESSIONAL RECORD an article which appeared in the Reader's Digest in the July issue of 1957, and an article that appeared in the Dallas Morning News, June 29, 1957. In the Washington Post, July 25, 1957, there was an article by Jeff O'Neill entitled, "Older Worker Gets Job Break." The article refers to the policy of the Lofstrand Co. of Rockville, Md., concerning older workers. In the Evening Star, August 14, 1957, is an article entitled "Hire Older Workers, Employers Are Urged."

For many years I believe I have recognized the seriousness of the problems that face older people who seek employment. In the early 1930's I knew a very experienced man in oilfield work who about the time he became 45 years of age and lost his job could not find anything like steady, gainful employment thereafter. He had 3 children, the oldest of whom was about 14. He was capable in his work, and his wife and children needed the income from his ability to earn as much as they had ever needed or would ever need that which he might earn.

For months, even though he was A-1 in his ability to do oilfield work, much of which required considerable skill, he sought work, but was told he was too old. From worry, disappointment, and humiliation because he could not provide for his family, he became ill and not too long thereafter passed away. My observation of the plight of this family has remained vividly with me. Incidentally, to be sure this was the depression period, but I recall many younger men in the very active east Texas oilfield worked quite regularly, for drilling in this field was at its height in those years.

During World War II it was clearly shown that older people as well as crippled and handicapped people could do good jobs of work in many phases of our economy. Their services were sought after and utilized. The Government as well as countless private companies utilized their services. To me this is ample proof that an unfortunate policy long had been followed pertaining to the group I have referred to. There is nothing worse than a useful person because he cannot get work feeling useless. His spirit is killed by such a feeling. He loses hope.

It gives me encouragement to note from the letter of Hon. Stephen S. Jackson that some progress is being made in bringing about changes that will benefit older people; the Government has set a good example in this instance. May other officials of Government as well as industry seek to make more progress along this line.

As the father of five children, I believe I am able to look at the employment problems of older people and handicapped people objectively. Boys and girls who finish high school and college or who are not privileged to finish need employment opportunities. To this end I have always worked.

The problems of America are many and great. We can more effectively solve them if we utilize the services of all capable people—even though some are older and some handicapped, such as injured veterans, those people afflicted from birth, or by crippling diseases or accident. All these worthy people must not be forgot, but must be given the opportunity to work, to learn, to improve their skills rather than to be what many detest—dependent.

I sincerely commend Hon. Stephen S. Jackson and his associates for bringing about this change.

REVISION AND EXPANSION OF SOCIAL SECURITY PROGRAM

The SPEAKER. Under previous order of the House, the gentleman from West Virginia [Mr. STAGGERS] is recognized for 5 minutes.

Mr. STAGGERS. Mr. Speaker, the social-security law was enacted in the early 1930's when our Nation was in a tragic depression. It went a long way toward helping many of our elder citizens. In fact, it meant survival for many. Unfortunately, we are again living in a period of recession. Revision and expansion of our social-security program has not kept pace with our changing times. There is an urgent need now for another revision and extension of this act.

When I came to Congress in January 1949, one of my first endeavors was to see that an amendment to the Social Security Act was passed enabling State and city employees to participate in this program. It is a source of pride that I was able to assist in the enactment of this amendment which has benefited many hundreds in the State of West Virginia alone as well as many thousands throughout our Nation.

The fantastic economic situation in which we find ourselves today with ever-increasing unemployment and distress throughout the country is proof that we must amend the present Social Security Act to benefit our elder citizens who are living on fixed incomes.

It is my conviction that our social-security system is our first line of defense against financial suffering of our elder men and women. If we were to lower the age limit for social-security benefits, this would permit placing the younger people on the payrolls of the country and give the older men and women a chance to enjoy a few years of happiness. If this

could be done during this session of Congress, it is my belief that we would start our country back on the road to recovery. Our cost of living index has gone up about 20 percent in the past 10 years yet the annuities of our retired citizens have not been increased since 1954. It is true that the older group of workers is the first to be victimized by our declining economic conditions. They are the first to be let out of their jobs yet they have to pay the same high costs for food and other necessities. Our present system also ignores one of the nightmares of the aged, that of medical care. The cost of medical care has almost doubled in the past 10 years, yet the person living on a fixed income has had very little increase, if any. The need for a substantial increase in benefits cannot be questioned by anyone who has talked with these people or received the scores of letters that come into my office.

It is my strong conviction that we should abolish the provision that prohibits persons earning over \$1,200 a year prior to 72 years of age. I do not believe we have a right to set a limit on what people can earn when 65 years or older. Social security is not a government dole, but an insurance program which is paid for by the employer and the employee, and we should not penalize honest people who are able and desire to continue working. It is my hope that the day will come when every American worker will be able to invest in this sound program and look forward to happy retirement days.

For several sessions of Congress I have introduced a bill to reduce the retirement age to 60 years for the purpose of old age and survivors insurance benefits—H. R. 4140, in this Congress. The present law stipulates the retirement age as 65 for men, 62 for widows, and 62 with reduced annuities for wives and women workers.

The enactment of such a bill would be extremely timely now in this period of recession and what better way is there to combat the recession than to put a modest amount of purchasing power in the hands of persons in the age group of 60-65, who are no longer able to earn a living wage. This would be helpful to the older person whose skill is now obsolete because of changing times and to the chronically ill person who endangers his health and his very life by continuing to work because he has no other alternative. How helpful it would be to the widow who at 60 has never had previous employment experience but must have an income. These are the truly needy and neglected persons who would benefit from the proposal to reduce the retirement age to 60.

As Members of this great body, we are obligated to make certain through our social security system that our elder citizens who have earned the right and deserve the opportunity to live out their lives in dignity must no longer be the forgotten men and women of the country.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RHODES of Arizona, for several days, on account of official business of

the Committee on Interior and Insular Affairs.

Mr. MOORE (at the request of Mr. MARTIN) for June 27, on account of official business.

SOCIAL SECURITY IMPROVEMENTS URGED

(Mr. ASHLEY (at the request of Mr. McCORMACK) was given permission to extend his remarks at this point.)

Mr. ASHLEY. Mr. Speaker, in recent months the Congress has recognized the pressing need for adjusting personal income to the mounting and now alltime high cost of living by enacting a series of measures to bolster purchasing power and elevate the deteriorating living standards of whole segments of the American people.

We have granted—and most appropriately—over a million and a half postal and classified Government workers a substantial cost-of-living adjustment in their salaries which had been lagging woefully behind current consumer prices.

Our retired postal and Government employees have likewise been accorded an urgently needed annuity increment which will enable them to adjust their depreciated annuity income to their basic living requirements. Even our veterans and military personnel have been given a long overdue adjustment in compensation and pay to correlate them with competing wage standards in private industry.

All of these enactments have been just and humane and have had my warmest support because they reflect an acute awareness on the part of the Congress of a moral obligation to adjust otherwise static incomes to an inflated price structure in order that the living standards of our people shall not be forced below subsistence levels.

There are, of course, other large groups of citizens who have recourse to realistic income adjustment through organization and group pressure. The wages of organized workers in private industry, for example, are able to keep pace with spiralling living costs through the application of escalator clauses. Even the farmer, whose unfortunate economic plight has caused much concern in the last few years, has achieved a per-capita income increase of 10 percent in 1957 over 1956, so I am reliably informed.

There is, however, one broad segment of American citizens, Mr. Speaker, who have been denied an income adjustment for the last 4 years, a forgotten people who have no organized representation in Washington, no high-paid lobby to fight their legislative battle in the Halls of Congress for them. They have no spokesman and are completely without recourse unless we, the Members of Congress plead their cause. They are the millions of people who have made the required number of contributions to social security, who are no longer able to engage in productive employment, and who have retired on the belief that their social-security benefits would enable them to live out their years in dignity and comfort, free from dependency on

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OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued July 1, 1958
For actions of June 30, 1958
85th-2d, No. 108

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HIGHLIGHTS: Senate committee reported omnibus farm bill. House passed bill to extend special milk program for 3 years. House concurred in Senate amendment to bill to extend special livestock loan authority. Several Representatives urged extension of Public Law 480. Sen. Jackson introduced and discussed measure to provide food and fiber stockpiling program. Rep. Coad introduced and discussed bill to extend Public Law 480.

HOUSE

1. MILK. Passed without amendment, 327 to 1, S. 3342, to extend the special milk program for children for 3 years, from July 1, 1958, through June 30, 1961. The bill authorizes use of up to \$75 million of CCC funds for each of the 3 years to increase the consumption of fluid milk by children in nonprofit schools of high-school grade and under, and in nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children; and provides that funds expended for this purpose shall not be considered as amounts expended for the purpose of carrying out the price-support program. This bill will now be sent to the President. pp. 11483-492
2. LIVESTOCK LOANS. Concurred in the Senate amendment to H. R. 11424, to extend for 2 years, through July 14, 1961, the authority of the Secretary to make supplementary advances to borrowers for special livestock loans. This bill will now be sent to the President. pp. 11492

3. FOREIGN TRADE; SURPLUS COMMODITIES. Several Representatives urged early consideration of legislation for the extension of Public Law 480. Rep. Cooley and Roage indicated the measure would require further study, particularly with regard to the barter provision. Rep. McCormack expressed concern with the effects of surplus disposals on our relations with friendly countries. pp. 11485-86, 11487-490, 11542-43
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Rep. Harris inserted the text, as passed by the House, of H. R. 12832, the omnibus transportation bill. He stated the text of the bill appearing in the June 27 Record was not complete. pp. 11500-502
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8. STATEHOOD. Passed without amendment, 64 to 20, H. R. 7999, to admit Alaska into the Union as a State. This bill will now be sent to the President. pp. 11400, 11403-6, 11416-19, 11421-6, 11428-38, 11443-70
9. TRANSPORTATION. Senate conferees were appointed on S. 3778, the omnibus transportation bill. House conferees have been appointed. pp. 11426-8
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11. RESEARCH. Sens. Ellender and Proxmire were added as cosponsors to S. 3697, to create an Agricultural Research and Industrial Board to coordinate research into new industrial uses for farm crops. p. 11399
12. SMALL BUSINESS. H. R. 7963, to extend the Small Business Act of 1953 and increase the SBA loan authority, was made the pending business. p. 11470
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14. SURPLUS PROPERTY. Sen. Thye urged enactment of S. 1318, to provide for the free donation of Federal surplus property to State and local governments for recreational purposes, and inserted a letter from the Minn. Conservation Commissioner supporting the bill. p. 11471
15. WATER RESOURCES. Sen. Watkins inserted a speech by a water attorney, "Current Developments in Water Law." pp. 11471-7

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We bought an auto top bed tent with ladder so we also were able to set up a bed on the car top in a few minutes and break it up still faster.

Diane, being just 5 feet tall, was to sleep on the rear seat, and Yvonne had a legless cot to put across the top of the front seat and rear window shelf. So our lodging was solved for 42 nights.

We had a lean-to auto tent that we used to dress in or cook and eat in if it rained.

We had a two-burner Coleman gas stove and a nested cooking and eating set that fit into a box just 11 inches cubed.

We had one fishing rod but no guns whatsoever. I had been in northern Alberta before, long enough to know that the only thing to fear in the north is mosquitoes.

But we forgot our mosquito spray gun so we had to buy some squirt-type mosquito bombs which we used often.

FROM MILE ZERO

I realized early that we were too heavily loaded so I bought overload springs at Great Falls, Mont. We crossed the United States-Canadian border on June 12. The border investigation is a simple formality, but since we were going to Alaska, we were asked to show our funds of which we had over \$400 besides 5 gasoline credit cards (many credit cards are good in Canada and Alaska, too).

Birth certificates are helpful. Alberta requires proof of auto liability insurance in the form of a pink slip from your insurance company.

We stopped near Grande Prairie, Alberta, at the village of Sexsmith to visit cousins and friends in the country where I lived from 1928 to 1934. Helen washed our clothes.

I bought an extra tarp to protect our auto top bed tent which was not shedding rain at all.

On Sunday, June 16, we entered the Alaska Highway, mile zero. The road just before we entered it between Hythe, Alberta, and Dawson Creek, B. C., was the worst road we encountered, a distance of about 40 miles.

The Alaska road runs over 1,523 miles from Dawson Creek, B. C., and it is considered the most adventuresome auto trip in North America.

We saw license plates from many of our States and most provinces of Canada. We found the road generally good; all the road from Dawson Creek to past the Alaska boundary is a well-maintained gravel road equal to our State or county gravel roads.

During dry weather the road is dusty. After heavy rains, before the maintenance crew can catch up, the road is washboard-like and sometimes rough in a few spots.

The road is not like a California freeway or Pennsylvania Turnpike. Forty miles is a fast safe speed and it is wise to be ready to slow up for occasional bumps or small holes.

I was pleasantly surprised to find how far we could travel in a day. There was no darkness in Yukon and Alaska during the last 2 weeks in June.

Stretching like a long, narrow band through forest-covered hills and around great mountains and lakes, this road is surely the world's most romantic and scenic virgin wonder trail. Driving time from Omaha to the Alaska border was 8 days.

CAMPING EN ROUTE

The roadside is covered with wild flowers. Large water lilies of gold fill the shallow ponds and marshes.

One can see many towering white-capped peaks of perpetual snow in the distance.

We saw a lot of wild ducks on the small lakes as well as beaver dams and beaver houses.

To see a baldheaded eagle soar is a thrill.

We saw many cow moose with calves feeding and even saw a fox catching mice near a ditch bank.

The lakes are full of loons whose cries at night are very scary and suggestive of a child crying in agony.

About the only wild creatures we did not see were bears and wolves.

Bears are hunted so much that they learn to respect man and are not to be seen like the spoiled park bears in Yellowstone.

There is a big bounty on wolves so they too are very shy about exposing themselves. We finally saw a small timid bear near a camp as we were approaching a settlement in northern British Columbia not too far from Fort St. John on our way home. He ran like a rabbit.

The fishing in the interior of western Canada and Alaska away from the sea is difficult. It is a struggle to catch any fish.

We camped and cooked our meals all along the way. Helen and Yvonne became expert outdoor camp cooks, even baked biscuits. Sometimes Diane picked wild strawberries as a supplement for our dessert.

The Yukon and Alaska have fine camping areas in many places for the convenience of the tourist. Most campsites have tables, fireplaces, firewood, toilets, pure drinking water (usually from springs) and even shelters in which to cook in case of rain or chilly mornings.

Lodges (motels), eating places, gas service stations, and small general stores are to be found all along the road, usually spaced 50 or less miles apart.

Overnight lodging costs about the same or little more than comparable facilities in the United States, but accommodations are sometimes not as de luxe as ours.

However, sleeping accommodations cost very much more in booming Alaska towns like Anchorage or Fairbanks. Meals and groceries cost about 25 percent to 50 percent more. Gasoline prices vary from 39 cents at seaports in Alaska to over 55 cents at Fairbanks. Oil and tire prices are higher, too.

Gasoline prices in Canada ranged up to 65 cents for the larger imperial gallon in northern British Columbia.

It is a pleasure to drive without seeing any billboard advertisements or tins cans and trash in ditches.

The entire highway is marked off in mileposts starting with zero at Dawson Creek, British Columbia, to 1,202 at the Alaska border and beyond to Fairbanks at 1,523. You cannot get lost. There is only one Alaska road.

AROUND ALASKA

The Territory of Alaska has over 1,000 miles of good black-topped pavement, most of which is equal to the roads in the United States. In addition to that space are over 500 miles of good, safe, gravel roads that are usually well maintained in the summer. We enjoyed 18 days in that fine vacationland.

The cities of Anchorage, Fairbanks, Seward, Valdez, Homer, Kenai, and Circle City are all connected to the Alaska Highway.

At Valdez we found a fishing paradise. Pink salmon were going up small streams and were very numerous and easy to catch. Diane caught as many fish as we could eat, preserve, or give away—the smallest weighed 4 pounds.

At Circle City we saw the sun at midnight due north on June 21 and likewise at Eagle Summit on June 22 on Steese Highway. Circle City is 49 miles south of the Arctic Circle and is the most northerly town, connected by road, in North America.

Seward is an interesting seaport town and the ocean terminus of the Alaska Railroad. Homer is located on the southern tip of Kenai Peninsula and is near some wonderful vacant grasslands, native hay, waist high as far as one could see.

The grazing season is only 4 to 6 months long and hay is extremely hard to make because of the frequent rain and mist. However, some residents told me that they could raise cattle profitably if Alaska gained statehood and the beef market was made possible.

Kenai is a village that was settled by Russians in 1791. Descendants of early Russians still live there. We visited the Russian Orthodox Church, more than 100 years old, in Eklutna.

I asked our guide to say the Lord's Prayer in Russian and I was amazed on how many of the words I could recognize because of their similarity to Czech words.

In Kenai we met a young couple who are successful homesteader potato farmers, raising 9 tons of potatoes to the acre.

Fairbanks and Anchorage are not much different from Lincoln and Wichita. Both are growing and have housing problems.

Big Delta residents boast the greatest extremes in Alaska temperatures. The city of Big Delta is supposed to have had 80 below in winter, and gets up to 100 in summer (on the same thermometer). That is the same difference between freezing and boiling water at sea level.

We returned home via the alternate route through Dawson, Yukon, not a regular traveled road. It has ferries instead of bridges. It made backtracking necessary on only the first 925 miles of the present road. The distance is only 136 miles farther via this alternate return route.

DRESS CLOTHES USELESS

For any one contemplating the trip, we recommend purchase of the Mile Post booklet published at P. O. Box 457, Cathedral City, Calif., for \$1.25. It gives great detail on every interesting part of the Alaska route.

Do not think it necessary to figure out all equipment and baggage to the minute detail. Most of the larger cities in Alaska have supplies if you forget something. Used Army equipment can be bought reasonably at Army surplus stores in Fairbanks.

We found the most useless baggage was our dress clothes, which we did not use. Sport clothes are quite proper for Alaska travel.

Outside of gasoline, our living expenses on the trip were even a shade less than they were at home in Omaha. We had to put up at hotels only twice, once when it was pouring rain on our stop. We had few restaurant meals.

Mrs. Tesar is good at fixing leftovers. We caught fish. We picked wild berries. Alaskans gave us vegetables from their gardens.

Gasoline was half again as expensive as in the States, and staple groceries were a bit higher.

I hope that if this article inspires any one to travel the Alaska Highway he will not be disappointed. If you care only for plush and chrome luxury, if you cannot tolerate some dust and bumps, if you would not trade a French menu for ham and eggs, if you like neon lights better than fragrant forest air, then maybe the jaunt will not delight you as it did us.

Mr. THURMOND. Mr. President, I shall now address myself to the second point of order of the Senator from Mississippi [Mr. EASTLAND]. It appears that section 8 of the Alaskan Constitution is in direct violation of the Constitution of the United States in providing the manner and terms for the election of United States Senators.

Section 1 of H. R. 7999 ratifies and accepts a constitution for the State of Alaska which has been previously approved by the resident of the Territory of Alaska. Article XV, section 3 of this Alaskan Constitution provides for the election of 1 United States Senator for

a long term and the election of 1 United States Senator for a short term. The exact language of this section is as follows:

SEC. 8. The officers to be elected at the first general election shall include 2 Senators and 1 Representative to serve in the Congress of the United States, unless Senators and a Representative have been previously elected and seated. One Senator shall be elected for the long term and one Senator for the short term, each term to expire on the 3d day of January in an odd-numbered year to be determined by authority of the United States. The term of the Representative shall expire on the 3d day of January in the odd-numbered year immediately following his assuming office. If the first Representative is elected in an even numbered year to take office in that year, a Representative shall be elected at the same time to fill the full term commencing on the 3d day of January of the following year, and the same person may be elected for both terms.

The Constitution of the United States provides in article I, as modified by article XVII, that the Senate of the United States shall be composed of 2 Senators from each State, elected by the people thereof for 6 years. It is very clear, therefore, that any attempt to elect a Senator for what is called a short term is in violation of the Constitution. The Constitution clearly states that Senators must be elected for a term of 6 years.

I know of two previous instances in which an attempt has been made to designate the classification of Senators by the legislatures of their States. The first such instance occurred 100 years ago, in 1858, when the State of Minnesota was admitted to the Union. The Legislature of the State of Minnesota passed a resolution designating that one of the elected Senators should represent the State for a longer term than the other. The Senate heard the resolution and referred the matter to the Committee on the Judiciary, which reported a resolution setting forth the procedure for classifying the two new Senators from Minnesota in precisely the same manner in which the Senators from other new States had been classified by the Senate, without a single exception, from the first session of the first Congress. In other words, the Senators were classified by lot.

This system by which the Senate has always classified Senators of new States was not challenged again until December 4, 1889, when the credentials of the two Senators from the new State of North Dakota were presented to the Senate. At the same time that the credentials of these Senators were presented, there was also presented a resolution of the two Houses of the North Dakota Legislature. The resolution designated 1 of the 2 Senators to serve a longer term than the other. Senator Hoar then addressed the Senate, and this is what he said:

Mr. HOAR. Mr. President, the Constitution of the United States provides that after the assembling of the Senate, in consequence of the first election, "they (the Senators) shall be divided as equally as may be into three classes." The Constitution did not expressly provide by what authority that designation should be made, but it has been the uninterrupted usage since the Government was inaugurated for the Senate to exercise that authority. Indeed, no other authority

could be for a moment supposed to have been intended to be charged with this duty.

The Legislature of the State of North Dakota, the 2 houses of that legislature, after the election, have expressed a desire that 1 of the 2 gentlemen elected to the Senate of the United States from that State should hold the seat for the long term. Of course, that matter did not enter into the election there, and if it had done so, it is obvious that the State legislature had no constitutional authority in relation to the subject. Indeed, it was not then known, and is not yet known, what length of term will be assigned to either of the Senators from that State. Either of them may, in accordance with the lot, be assigned to the 6 years', the 4 years', or the 2 years' term. All that the Senate now knows is that, if this resolution be adopted, no 2 Senators will be assigned, from any one of the States that have just been admitted, to a term of the same length. Perhaps the desire of the Legislature of the State of North Dakota may be accomplished as the result of the proceedings of the Senate, but that must be the result of the lot, and I cannot see that the Senate may justly or properly exercise any authority in regard to it by way of departure from its duty.

There is no question whatsoever about the procedure which the Senate has established for classifying Senators. It is an old and long-established procedure. It has not been seriously challenged for the last hundred years. Yet we find the framers of the constitution of the proposed State of Alaska flying in direct contravention of the established procedures and, indeed, in direct violation of the Constitution of the United States.

Let me make it clear that I do not believe for an instant that this was done maliciously or with any intent to overthrow established procedures. On the contrary, I am convinced that the people of Alaska wish to join the Union under the same terms and conditions that have applied to the admission of other States. However, as I have mentioned before, this is not a government of good intentions to the exclusion of the law. It is a government, I would hope, of good intentions under the law.

It appears to me that this violation of the Constitution, though unintentional, is a most serious matter.

I have not had the opportunity to study carefully all of the provisions in the Alaskan constitution. I am making an effort to study them now, while this bill is under consideration. It occurs to me that since this Alaskan constitution is so far out of line with the Constitution of the United States with regard to the selection of Senators it may well be that there have been other important errors in the drafting of the Alaskan constitution. I do not believe that sufficient care has been given to the study of the Alaskan constitution in considering the Alaskan statehood bill.

As all of us know well, there are not two classes of Senators but three classes. The terms of one-third of this body expire at 2-year intervals. The proposal of the Alaskan constitution is completely inconsistent with the Constitution of the United States, which requires that Senators be chosen for a term of 6 years and that the Senate divide itself into 3 classes.

I urge that the pending point of order be sustained, and that no further con-

sideration be given the proposed legislation until the Alaskan Constitution shall be made to conform with the Constitution of the United States.

Mr. CASE of South Dakota obtained the floor.

Mr. CHURCH. Mr. President, will the Senator yield to me for the purpose of suggesting the absence of a quorum?

Mr. CASE of South Dakota. I will yield provided I do not lose the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Aiken	Goldwater	Morse
Allott	Green	Morton
Anderson	Hayden	Mundt
Barrett	Hickenlooper	Murray
Beall	Hill	Neuberger
Bennett	Holland	O'Mahoney
Bibb	Hruska	Pastore
Bricker	Humphrey	Payne
Bridges	Ives	Potter
Bush	Jackson	Proxmire
Butler	Javits	Purtell
Byrd	Johnston, S. C.	Revercomb
Carlson	Jordan	Robertson
Carroll	Kefauver	Russell
Case, N. J.	Kennedy	Saltonstall
Case, S. Dak.	Kerr	Schoeppel
Chavez	Knowland	Smith, Maine
Church	Kuchel	Smith, N. J.
Cooper	Langer	Sparkman
Cotton	Lausche	Stennis
Dirksen	Long	Symington
Douglas	Magnuson	Talmadge
Dworshak	Mansfield	Thurmond
Eastland	Martin, Iowa	Thye
Ellender	Martin, Pa.	Watkins
Ervin	McClellan	Wiley
Frear	McNamara	Williams
Fulbright	Monroney	Young

Mr. MANSFIELD. I announce that the Senator from Pennsylvania [Mr. CLARK], the Senator from Tennessee [Mr. GORE], the Senator from Missouri [Mr. HENNINGS], the Senator from Texas [Mr. JOHNSON], the Senator from Florida [Mr. SMATHERS], and the Senator from Texas [Mr. YARBOROUGH] are absent on official business.

Mr. DIRKSEN. I announce that the Senator from Indiana [Mr. CAPEHART] and the Senator from Nevada [Mr. MALONE] are absent on official business. The Senator from Nebraska [Mr. CURTIS] is absent on public business.

The Senator from Vermont [Mr. FLANDERS] is absent because of death in the family.

The Senator from West Virginia [Mr. HOBLITZELL] is absent because of illness.

The Senator from Indiana [Mr. JENNER] is necessarily absent.

The PRESIDING OFFICER. A quorum is present.

IMPROVEMENT OF NATIONAL TRANSPORTATION SYSTEM

The PRESIDING OFFICER (Mr. PROXMIRE in the chair) laid before the Senate the amendment of the House of Representatives to the bill (S. 3778) to amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes, which was to strike out all after the enacting clause and insert:

That this act may be cited as the "Transportation Act of 1958."

AMENDMENT TO INTERSTATE COMMERCE ACT,
RELATING TO LOAN GUARANTIES

SEC. 2. The Interstate Commerce Act, as amended, is amended by inserting immediately after part IV thereof the following new part:

"PART V

"PURPOSE

"SEC. 501. It is the purpose of this part to provide for assistance to common carriers by railroad subject to this act to aid them in acquiring, constructing, or maintaining facilities and equipment for such purposes, and in such a manner, as to encourage the employment of labor and to foster the preservation and development of a national transportation system adequate to meet the needs of the commerce of the United States, of the postal service, and of the national defense.

"DEFINITIONS

"SEC. 502. For the purposes of this part—
"(a) The term 'Commission' means the Interstate Commerce Commission.

"(b) The term 'additions and betterments or other capital expenditures' means expenditures for the acquisition or construction of property used in transportation service, chargeable to the road, property, or equipment investment accounts, in the Uniform System of Accounts prescribed by the Interstate Commerce Commission.

"(c) The term 'expenditures for maintenance of property' means expenditures for labor, materials, and other costs incurred in maintaining, repairing, or renewing equipment, road, or property used in transportation service chargeable to operating expenses in accordance with the Uniform System of Accounts prescribed by the Commission.

"LOAN GUARANTIES

"SEC. 503. In order to carry out the purpose declared in section 501, the Commission, upon terms and conditions prescribed by it and consistent with the provisions of this part, may guarantee in whole or in part any public or private financing institution, or trustee under a trust indenture or agreement for the benefit of the holders of any securities issued thereunder, by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan, discount, or advance, or on any commitment in connection therewith, which may be made, or which may have been made, for the purpose of aiding any common carrier by railroad subject to this act in the financing or refinancing (1) of additions and betterments or other capital expenditures, made after January 1, 1957, or to reimburse the carrier for expenditures made from its own funds for such additions and betterments or other capital expenditures, or (2) of expenditures for the maintenance of property.

"LIMITATIONS

"SEC. 504. (a) No guaranty shall be made under section 503—

"(1) Unless the Commission is of the opinion that without such guaranty, in the amount thereof, the carrier would be unable to obtain necessary funds, on reasonable terms, for the purposes for which the loan is sought.

"(2) If the loan involved is at a rate of interest which, in the judgment of the Commission, is unreasonably high, or if the terms of such loan permit full repayment more than 15 years after the date thereof.

"(3) For any loan for expenditures for maintenance of property, if the principal of such loan, or the total of such principal and the unpaid principal of all other loans to the common carrier concerned for expenditures for maintenance of property guaranteed under this act, exceeds 50 percent of the aggregate amount charged in the accounts

of said carrier for expenditures for maintenance of property during the calendar year next preceding the date of the application for such guaranty, and if the Commission fails to determine that on the date of the application the carrier has substantial deferred expenditures for maintenance of property, that such deferral has been required by the carrier's financial condition and that the carrier and lender have made arrangements which provide reasonable assurance that the proceeds of the loan will be used only to raise the annual level of maintenance expenditures by the carrier over the average annual level of such expenditures by the carrier during the period when such maintenance expenditures were being deferred.

"(b) It shall be unlawful for any common carrier by railroad subject to this act to declare any dividend on its preferred or common stock while there is any principal or interest remaining unpaid on any loan to such carrier made for the purpose of financing or refinancing expenditures for maintenance of property of such carrier, and guaranteed under this part.

"MODIFICATIONS

"SEC. 505. The Commission may consent to the modification of the provisions as to rate of interest, time or payment of interest or principal, security, if any, or other terms and conditions of any guaranty which it shall have entered into pursuant to this part or the renewal or extension of any such guaranty, whenever the Commission shall determine it to be equitable to do so.

"PAYMENT OF GUARANTIES; ACTION TO RECOVER PAYMENTS MADE

"SEC. 506. (a) Payments required to be made as a consequence of any guaranty by the Commission made under this part shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for the purpose of carrying out the provisions of this part.

"(b) In the event of any default on any such guaranteed loan, and payment in accordance with the guaranty by the United States, the Attorney General shall take such action as may be appropriate to recover the amount of such payments, with interest, from the defaulting carrier, carriers, or other persons liable therefor.

"GUARANTY FEES

"SEC. 507. The Commission shall prescribe and collect a guaranty fee in connection with each loan guaranteed under this part. Such fees shall not exceed such amounts as the Commission estimates to be necessary to cover the administrative costs of carrying out the provisions of this part. Sums realized from such fees shall be deposited in the Treasury as miscellaneous receipts.

"ASSISTANCE OF DEPARTMENTS OR OTHER AGENCIES

"SEC. 508. (a) To permit it to make use of such expert advice and services as it may require in carrying out the provisions of this part, the Commission may use available services and facilities of departments and other agencies and instrumentalities of the Government, with their consent and on a reimbursable basis.

"(b) Departments, agencies, and instrumentalities of the Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this part.

"ADMINISTRATIVE EXPENSES

"SEC. 509. Administrative expenses under this part shall be paid from appropriations made to the Commission for administrative expenses.

"TERMINATION OF AUTHORITY

"SEC. 510. The authority granted by this part shall terminate at the close of March 31, 1961, except that its provisions shall remain

in effect thereafter for the purposes of guaranties made by the Commission prior to that time."

AMENDMENTS TO SECTION 1 OF INTERSTATE COMMERCE ACT

SEC. 3. Section 1 of the Interstate Commerce Act, as amended (1) by inserting in subparagraph (a) of paragraph (2) thereof, after the word "aforesaid" and before the semicolon following that word, a comma and the words "except as otherwise provided in this part" and (2) by striking out the period at the end of the provision in subparagraph (a) of paragraph (17) thereof and inserting in lieu thereof the following: "and except as otherwise provided in this part."

NEW SECTION 13A OF INTERSTATE COMMERCE ACT

SEC. 4. The Interstate Commerce Act, as amended, is amended by inserting after section 13 thereof a new section 13a as follows:

"DISCONTINUANCE OR CHANGE OF CERTAIN OPERATIONS OR SERVICES

"SEC. 13a. (1) A carrier or carriers subject to this part, if their rights with respect to the discontinuance or change, such discontinuance or change would otherwise become effective, may require such train or ferry to be continued in operation or service, in whole or in part, pending hearing and decision in such investigation, but not for a longer period than 4 months beyond the date when such discontinuance or change would otherwise have become effective. If, after hearing in such investigation, whether concluded before or after such discontinuance or change has become effective, the Commission finds that the operation or service of such train or ferry is required by public convenience and necessity and will not unduly burden interstate or foreign commerce, the Commission may by order require the continuance or restoration of operation or service of such train or ferry, in whole or in part, for a period of not to exceed 1 year from the date of such order. The provisions of this section shall not supersede the laws of any State or the orders or regulations of any administrative or regulatory body of any State applicable to such discontinuance or change unless notice as in this section provided is filed with the Commission. On the expiration of an order by the Commission after such investigation requiring the continuance or restoration of operation or service, the jurisdiction of any State as to such discontinuance or change shall no longer be superceded unless the procedure provided by this section shall again be invoked by the carrier or carriers.

"(2) The provisions of this section shall not apply to the operations of or services performed by any carrier by railroad on a line of railroad located wholly within a single State.

"(3) The Commission, in cooperation with State utilities commissions shall make a study of the passenger train deficit problem and report thereon to the Congress not later than June 30, 1959, together with such recommendations as the Commission deems to be necessary or appropriate."

AMENDMENT TO SECTION 15A OF THE INTERSTATE COMMERCE ACT

SEC. 5. Section 15a of the Interstate Commerce Act, as amended, is amended by inserting after paragraph (2) thereof a new paragraph (3) as follows:

"(3) In a proceeding involving competition between carriers of different modes of transportation, subject to this act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due

consideration to the objectives of the national transportation policy declared in this act."

AMENDMENT TO SECTION 203 (B) OF INTERSTATE COMMERCE ACT

SEC. 6. (a) Clause (6) of subsection (b) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a colon and the following: "Provided, That the words 'property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof)' as used herein shall include property shown as 'Exempt' in the 'Commodity List' incorporated in ruling No. 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as 'Not exempt': *Provided further, however, That notwithstanding the preceding proviso the words 'property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof), shall not be deemed to include frozen fruits, frozen berries, frozen vegetables, coffee, tea, cocoa, bananas, or hemp, and wool imported from any foreign country, wool tops and noils, or wool waste, carded but not spun, woven, or knitted and shall be deemed to include fish or shell fish, and fresh or frozen products thereof containing seafood as the basic ingredient, whether breaded, cooked or otherwise prepared (but not including fish and shell fish which have been treated for preserving, such as canned, smoked, salted, pickled, spiced, corned or kippered products);*."

(b) Unless otherwise specifically indicated therein, the holder of any certificate or permit heretofore issued by the Interstate Commerce Commission, or hereafter so issued pursuant to an application filed on or before the date on which this section takes effect, authorizing the holder thereof to engage as a common or contract carrier by motor vehicle in the transportation in interstate or foreign commerce of property made subject to the provisions of part II of the Interstate Commerce Act by paragraph (a) of this section, over any route or routes or within any territory, may without making application under that act engage, to the same extent and subject to the same terms, conditions and limitations, as a common or contract carrier by motor vehicle, as the case may be, in the transportation of such property, over such route or routes or within such territory, in interstate or foreign commerce.

(c) Subject to the provisions of section 210 of the Interstate Commerce Act, if any person (or its predecessor in interest) was in bona fide operation on June 1, 1958, over any route or routes or within any territory, in the transportation of property for compensation by motor vehicle made subject to the provisions of part II of that act by paragraph (a) of this section, in interstate or foreign commerce, and has so operated since that time (or if engaged in furnishing seasonal service only, was in bona fide operation on June 1, 1958, during the season ordinarily covered by its operations and has so operated since that time), except in either instance as to interruptions of service over which such applicant or its predecessor in interest had no control, the Interstate Commerce Commission shall without further proceedings issue a certificate or permit, as the type of operation may warrant, authorizing such operations as a common or contract carrier by motor vehicle if application is made to the said Commission as provided in part II of the Interstate Commerce Act and within 120 days after the date on which this section takes effect. Pending the determination of any such application, the continuance of such operation without a certificate or permit shall

be lawful. Any carrier which on the date this section takes effect is engaged in an operation of the character specified in the foregoing provisions of this paragraph, but was not engaged in such operation on June 1, 1958, may under such regulations as the Interstate Commerce Commission shall prescribe, if application for a certificate or permit is made to the said Commission within 120 days after the date on which this section takes effect, continue such operation without a certificate or permit pending the determination of such application in accordance with the provisions of part II of the Interstate Commerce Act.

AMENDMENT TO SECTION 203 (C) OF INTERSTATE COMMERCE ACT

SEC. 7. Subsection (c) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the period at the end thereof and inserting in lieu of such period a comma and the following: "nor shall any person in connection with any other business enterprise transport property by motor vehicle in interstate or foreign commerce unless such transportation is incidental to, and in furtherance of, a primary business enterprise (other than transportation) of such person."

Mr. MAGNUSON. Mr. President, I move that the Senate disagree to the amendment of the House, request a conference with the House of Representatives thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. MAGNUSON, Mr. SMATHERS, Mr. LAUSCHE, Mr. YARBOROUGH, Mr. BRICKER, Mr. SCHOEPFEL, and Mr. PURTELL conferees on the part of the Senate.

BOUNDARY COMPACT BETWEEN STATES OF OREGON AND WASHINGTON

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H. R. 7153) giving the consent of Congress to a compact between the State of Oregon and the State of Washington establishing a boundary between those States, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. O'MAHONEY. I move that the Senate insist upon its amendment, agree to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. O'MAHONEY, Mr. KEFAUVER, and Mr. WILEY conferees on the part of the Senate.

STATEHOOD FOR ALASKA

The Senate resumed the consideration of the bill (H. R. 7999) to provide for the admission of the State of Alaska into the Union.

Mr. CASE of South Dakota. Mr. President, the point of order pending before the Senate, raised by the distinguished Senator from Mississippi [Mr. EASTLAND], is based upon two parts of the bill before us dealing with statehood for Alaska.

The first portion is that found in the first section of the proposed act, which provides that the constitution framed under the provisions of an act of the Territorial legislature "is hereby found to be Republican in form and in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and is hereby accepted, ratified, and confirmed."

That language appears in section 1, at page 2 of the bill.

On page 14 of the bill, section 7 provides that the Governor of Alaska "shall issue his proclamation for the elections as hereinafter provided, for officers of all elective offices and in the manner provided for by the constitution of the proposed State of Alaska, but the officers so elected shall in any event include 2 Senators and 1 Representative in Congress."

So the bill, first of all, ratifies and accepts the proposed constitution for the new State of Alaska. Then, in section 7, it requires the Governor to issue his proclamation for an election in the manner provided for by the constitution of the proposed State of Alaska.

The portion of the proposed constitution for the proposed State of Alaska which is involved is section 8. In section 8 it is set forth that—

The officers to be elected at the first general election shall include two Senators and one Representative to serve in the Congress of the United States, unless Senators and a Representative have been previously elected and seated.

The next sentence is the particular sentence to which the Senator from Mississippi has addressed his point of order:

One Senator shall be elected for the long term and one Senator for the short term, each term to expire on the third day of January in an odd-numbered year to be determined by authority of the United States.

The Senator from Mississippi has based his point of order upon what he interprets to be the intent of that sentence by placing emphasis upon the first half of the sentence, namely:

One Senator shall be elected for the long term and one Senator for the short term.

The Senator from Mississippi reads with emphasis the part of the sentence up to the comma, namely:

One Senator shall be elected for the long term and one Senator for the short term.

But the sentence does not stop there. What I have read is not followed by a period. There is only a comma; then the sentence continues:

Each term to expire on the third day of January in an odd-numbered year to be determined by authority of the United States.

As the distinguished Senator from Washington [Mr. JACKSON] has pointed out, in the last clause, following the comma, the Territorial Legislature of Alaska, in the constitution it proposed, provided the answer to the question which has been posed by the Senator from Mississippi. I read it again: "each term to expire on the third day of January in an odd-numbered year to be determined by authority of the United States."

I think the gentleman is to be congratulated for his endeavors. I certainly hope he will concur in my suggestion that he has no intent in any way of being in conflict with existing law.

Mr. BEAMER. I think the gentleman is correct. I do not think this resolution is at all in conflict. It is more in complement and supplementing the proposal. This is not the only public law in regard to public safety. There are other laws. I do not have reference to these, but all are moving in that direction.

Mr. MCGREGOR. Will the gentleman yield for one more question?

Mr. BEAMER. Yes.

Mr. MCGREGOR. In your bill you say "Highway designs." I think that was a little in error, because when you attempt to establish a highway design you are entering into conflict with State specifications.

Mr. BEAMER. Let us understand this bill now. This is not mandatory on the Congress. It merely provides permissive legislation for the States, if they so desire. It is permissive legislation. It is not mandatory, and it requires no Federal appropriations.

Mr. MCGREGOR. Then it is not your intention to be in conflict with existing law?

Mr. BEAMER. Oh, there is absolutely no conflict with existing law.

Mr. MCGREGOR. I thank the gentleman, and I congratulate him in his efforts.

Mr. BEAMER. I thank the gentleman.

Mr. HARRIS. Mr. Speaker, I want to compliment the subcommittee on traffic safety of the Committee on Interstate and Foreign Commerce for the splendid job which they have done in connection with highway safety, not only in this Congress but in the last Congress. This committee has given long consideration over a great period of time to this important matter.

I want to compliment the gentleman from Alabama, [Mr. ROBERTS], chairman of the subcommittee, and every member of the subcommittee, for the patient work they have done which has resulted in bringing to the House for its consideration this resolution at this time.

I also wish to comment further that the gentleman from Indiana [Mr. BEAMER], has been interested in this problem, as have other members of the subcommittee, and indeed all of us in this Congress, in the question of highway traffic safety over a period of time. It is in the hope of accomplishing some good that we call to the attention of the American people the further importance of this problem with the view of trying to do something about it, as I know many are doing today.

This joint resolution is permissive in character. It does not in any way invade the prerogatives of the States; it merely permits the States to enter into compacts or agreements for particular purposes, that is, cooperative efforts and mutual assistance in the establishment of programs that will bring to the Ameri-

can people a more desirable and effective highway safety program.

I wish again to express my appreciation to this subcommittee for the splendid work it has done.

Mr. ROGERS of Texas. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Texas, a member of the subcommittee.

(Mr. ROGERS of Texas asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ROGERS of Texas. Mr. Speaker, I know that there is no Member of this body who is not aware of the tremendous national problem we have in the traffic safety field. Our studies have shown us that the public as a whole is concerned with this problem, and that there are in existence a great many groups seeking a solution to the problem. But I wonder if, perhaps, well-meaning though they be, many of these groups and organizations may not be wandering off in different directions. The resolution before you today would provide a means of getting everyone headed in the same direction and working together. I urge that the resolution be adopted.

Mr. HARRIS. Mr. Speaker, I yield 5 minutes to the gentleman from New York, the distinguished chairman of the Committee on the Judiciary [Mr. CELLER].

Mr. CELLER. Mr. Speaker, I wish to make a few observations in connection with this bill by way of criticism as to the form of the bill, not by way of formal objection to the bill itself, because I approve its purpose of developing public safety on our highways.

The form this bill takes is unprecedented, and I say that advisedly to the gentleman from Indiana.

The bill does not contain the usual provisions that are contained in bills of this character, setting out authority for State compacts.

The way the bill is drafted the Congress gives a blank check to all States to enter into these compacts. That is very much, to ring the changes on a well-known simile, like buying a pig in a poke. We are yielding our jurisdiction completely. We should never do that.

The committee report states on page 2 that congressional consent in advance is not a new idea, and cites 5 laws in support of this statement. I must take exception to this statement. The report does not tell the whole story. While the laws stated give consent in advance, two of them provide that before the compacts become effective they must be ratified by the Congress, they must be brought back here for ratification so that we, the Members of Congress, know exactly what these State compacts contain, so that we can carry out the constitutional mandate which is to the effect that no State can enter into any compact or agreement with another State without the consent of Congress.

It was never intended in a constitutional sense that we were to give our consent in advance, *carte blanche*.

Let us consider the so-called precedents that are cited.

First. The flood control compact—49th United States Statutes at Large, page 1571. That had to be ratified by Congress.

Second. The park and recreational area planning compact—49th United States Statutes at Large, page 1895. That had to be ratified by Congress.

Third. The interstate oil compact—57th United States Statutes at Large, page 387. There the complete text of the compact was set out in the congressional act.

Fourth. The Tobacco Products Act—49th United States Statutes at Large, page 1239—incorporated by reference the Virginia Act on the subject as a guide for other compacts.

So Congress knew exactly what it was buying.

Fifth. The Forest Protection Act—the so-called Weeks Act. While the compact did not have to be ratified by Congress, nevertheless the congressional act set up a Federal commission which worked in close association with the compacting States and could exercise control over the activities of the compacting States.

Mr. WILLIS. Mr. Speaker, will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Louisiana.

Mr. WILLIS. Mr. Speaker, I happen to be chairman of a subcommittee that handled most of these compact cases. Never before over the years that I have served as chairman have we as a Congress initiated a compact. The practice has been for two or more States desiring to enter into a compact to have their legislatures adopt similar and identical bills, have them submit to the Congress a copy of the compact, the act, the instrument, the document that they want ratified. Here we are initiating the compact and we give consent in advance.

Let me say to the gentleman and to the membership that I am not generating opposition to the bill. I approve its objectives. I personally do not want this to be considered as a precedent for the action of our own committee. What other committees do in the submission of compacts is within their jurisdiction. It has nothing to do with the jurisdictional strife, just an announcement of policy by myself.

Mr. CELLER. Does not the gentleman think that this colloquy may do some good in the sense that we advise our colleagues in the other body of the need of placing in this compact some provision that the compact, before it can be effective, must be ratified by the Congress, that we do not surrender forever jurisdiction over the matter?

Mr. Speaker, at this point in the RECORD I want to insert a communication which I addressed to the distinguished chairman of the Interstate and Foreign Commerce Committee, dated May 24, 1958, and his reply thereto, and I make that unanimous consent request.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The matter referred to follows:

MAY 24, 1958.

HON. OREN HARRIS,
Chairman, Committee on Interstate
and Foreign Commerce, House of
Representatives, Washington, D. C.

DEAR COLLEAGUE: I have learned that the Committee on Interstate and Foreign Commerce has taken favorable action on House Joint Resolution 221 and ordered it reported to the House. The purpose of this legislation is to grant, in advance, the consent of Congress to the States to enter into interstate compacts to promote highway traffic safety.

The Judiciary Committee, because it has jurisdiction over interstate compacts generally, has developed rules of thumb or guides helpful in avoiding compacts with undesirable features entered into after Congress has given its consent.

It is felt that House Joint Resolution 221 does not contain provisions which would safeguard the congressional interest and I am taking the liberty of calling some of them to your attention for whatever consideration your committee may be able to give them before the legislation is formally reported to the House.

1. House Joint Resolution 221, using as it does, broad general language could result in States entering into all kinds and types of compacts some of which may not be desirable from the congressional point of view. It could be likened, by its general grant of authority, to Congress "buying a pig in a poke."

2. House Joint Resolution 221 in permitting the establishment of interstate agencies would be authorizing the creation of bodies with far-reaching powers whose future actions would be subject to little or no control by the Congress. In practice such agencies become almost autonomous. The Judiciary Committee knows of no instance where the Congress has overruled actions of interstate compact agencies which were considered objectionable.

3. In addition, once created, such agencies are oftentimes subject to little control by the States and this is especially so where the agency is a creature of many States. To amend a compact agreement, at State level, requires consent of every State to the compact. Unless all the participating States agree to the identical change in the compact, the amendment can fail. Further some legislatures do not meet each year and this delays matters. The very difficulty of securing changes by this cumbersome method results in a failure to make changes in the compacts which even the States may consider desirable.

4. A nationwide program and uniform traffic laws may not necessarily be achieved by House Joint Resolution 221. Authorizing any two or more States to enter into agreements could result in numerous dissimilar interstate compacts. The Judiciary Committee has found it the better method, in dealing with interstate compacts, to grant consent only when a concrete proposal or compact is before the Congress. Consideration of a detailed compact makes it possible to avoid speculative and perhaps undesirable results.

Another method of which this committee adopts in handling compacts, especially where the Congress itself initiates the action, is to set out in the House resolution granting consent in advance a model compact with sufficiently flexible provisions to permit the solution of regional problems and yet at the same time retain the nationwide uniformity which is the purpose and objective of the legislation. This enables the Congress to set forth specifically the type and kind of compacts to which it would be expressly consenting in advance. Such guidance on the part of Congress enables the States to consider and adopt compacts suited to their needs, achieve a solution of the problem

concerned on a nationwide basis and yet permit Congress to retain control by knowing exactly the provisions of the compact to which it is consenting.

Sincerely yours,

EMANUEL CELLER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE
AND FOREIGN COMMERCE,
Washington, D. C., June 6, 1958.

HON. EMANUEL CELLER,
Member of Congress, House of Representatives, Washington, D. C.

DEAR MANNIE: Thank you for your letter regarding House Joint Resolution 221 which has been reported out of the Special Subcommittee on Traffic Safety on April 22 and which is now awaiting action by the full committee.

This resolution was introduced by Mr. BEAMER, a member of this committee, and I have referred your letter to him for reference and study.

Thanks again for taking the time to explain your views, and, with kindest personal regards, I am,

Sincerely yours,

OREN HARRIS,
Chairman.

Mr. SCHENCK. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. OSTERTAG].

Mr. OSTERTAG. Mr. Speaker, I want to commend the gentlemen of the subcommittee, the subcommittee, and the sponsor of this bill for having brought it to the floor of the House for consideration. I believe this compact proposal has a very desirable and laudable purpose. It should stimulate the States in getting together to provide uniform laws and enter into reciprocal agreements and compacts in the interest of highway safety.

I have had some 15 years of experience in association with the Council of State Governments and as chairman of the New York Committee on Interstate Cooperation. I am somewhat familiar with the efforts of the States in meeting this problem.

By virtue of this resolution I believe it will do much in giving them the lift that is needed to get together and overcome some of the problems that exist between the States.

In discussing the question of compacts and the question of consent in advance, as well as that of ratification, the distinguished gentleman from New York [Mr. CELLER], I am sure, will agree that the objective of the language of this resolution indicates a desire that the States negotiate compacts and enter into agreements. I daresay that once they have entered into any compact, it would automatically come to the Congress for ratification.

Mr. CELLER. Mr. Speaker, will the gentleman yield?

Mr. OSTERTAG. I yield to the gentleman from New York.

Mr. CELLER. That is the gravamen of the complaint of the gentleman from Louisiana and myself. It would not come back under the terms of this resolution. We give them authority in advance, and they can do anything they please within the four squares of public safety.

Mr. OSTERTAG. There is nothing in this resolution which says that it

gives Congressional ratification of any action. It merely gives consent for negotiation by the States, and that is as I read it and that is as I believe it to be.

(Mr. OSTERTAG asked and was given permission to revise and extend his remarks.)

(Mr. FRIEDEL, at the request of Mr. HARRIS, was given permission to extend his remarks at this point in the Record.)

[Mr. FRIEDEL's remarks will appear hereafter in the Appendix.]

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that all Members may extend their remarks at this point in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The SPEAKER. The question is on suspending the rules and passing the bill.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

TRANSPORTATION ACT OF 1958

Mr. HARRIS. Mr. Speaker, on last Friday the House passed the transportation bill, H. R. 12832. The Record of June 27th failed to include the amendment that was adopted by the Committee of the Whole and by the House. I ask unanimous consent that the Record be corrected to show the entire amendment that was approved by the House.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The amendment reads as follows:

Strike out all after the enacting clause and insert "That this act may be cited as the 'Transportation Act of 1958.'"

"AMENDMENT TO INTERSTATE COMMERCE ACT, RELATING TO LOAN GUARANTIES

"SEC. 2. The Interstate Commerce Act, as amended, is amended by inserting immediately after part IV thereof the following new part:

"PART V

"Purpose

"SEC. 501. It is the purpose of this part to provide for assistance to common carriers by railroad subject to this act to aid them in acquiring, constructing, or maintaining facilities and equipment for such purposes, and in such manner, as to encourage the employment of labor and to foster the preservation and development of a national transportation system adequate to meet the needs of the commerce of the United States, of the postal service, and of the national defense.

"Definitions

"SEC. 502. For the purposes of this part—
"(a) The term "Commission" means the Interstate Commerce Commission.

"(b) The term "additions and betterments or other capital expenditures" means expenditures for the acquisition or construction of property used in transportation service, chargeable to the road, property, or equipment investment accounts, in the Uniform System of Accounts prescribed by the Interstate Commerce Commission.

"(c) The term "expenditures for maintenance of property" means expenditures for

labor, materials, and other costs incurred in maintaining, repairing, or renewing equipment, road, or property used in transportation service chargeable to operating expenses in accordance with the Uniform System of Accounts prescribed by the Commission.

"Loan guaranties

"SEC. 503. In order to carry out the purpose declared in section 501, the Commission, upon terms and conditions prescribed by it and consistent with the provisions of this part, may guarantee in whole or in part any public or private financing institution, or trustee under a trust indenture or agreement for the benefit of the holders of any securities issued thereunder, by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan, discount, or advance, or on any commitment in connection therewith, which may be made, or which may have been made, for the purpose of aiding any common carrier by railroad subject to this act in the financing or refinancing (1) of additions and betterments or other capital expenditures, made after January 1, 1957, or to reimburse the carrier for expenditures made from its own funds for such additions and betterments or other capital expenditures, or (2) of expenditures for the maintenance of property.

"Limitations

"SEC. 504. (a) No guaranty shall be made under section 503—

"(1) Unless the Commission is of the opinion that without such guaranty, in the amount thereof, the carrier would be unable to obtain necessary funds, on reasonable terms, for the purposes for which the loan is sought.

"(2) If the loan involved is at a rate of interest which, in the judgment of the Commission, is unreasonably high, or if the terms of such loan permit full repayment more than 15 years after the date thereof.

"(3) For any loan for expenditures for maintenance of property, if the principal of such loan, or the total of such principal and the unpaid principal of all other loans to the common carrier concerned for expenditures for maintenance of property guaranteed under this act, exceeds 50 percent of the aggregate amount charged in the accounts of said carrier for expenditures for maintenance of property during the calendar year next preceding the date of the application for such guaranty, and if the Commission fails to determine that on the date of the application the carrier has substantial deferred expenditures for maintenance of property, that such deferral has been required by the carrier's financial condition and that the carrier and lender have made arrangements which provide reasonable assurance that the proceeds of the loan will be used only to raise the annual level of maintenance expenditures by the carrier over the average annual level of such expenditures by the carrier during the period when such maintenance expenditures were being deferred.

"(b) It shall be unlawful for any common carrier by railroad subject to this act to declare any dividend on its preferred or common stock while there is any principal or interest remaining unpaid on any loan to such carrier made for the purpose of financing or refinancing expenditures for maintenance of property of such carrier, and guaranteed under this part.

"Modifications

"SEC. 505. The Commission may consent to the modification of the provisions as to rate of interest, time or payment of interest or principal, security, if any, or other terms and conditions of any guaranty which it shall have entered into pursuant to this part, or the renewal or extension of any such guaranty, whenever the Commission shall determine it to be equitable to do so.

"Payment of guaranties; action to recover payments made

"SEC. 506. (a) Payments required to be made as a consequence of any guaranty by the Commission made under this part shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for the purpose of carrying out the provisions of this part.

"(b) In the event of any default on any such guaranteed loan, and payment in accordance with the guaranty by the United States, the Attorney General shall take such action as may be appropriate to recover the amount of such payments, with interest, from the defaulting carrier, carriers, or other persons liable therefor.

"Guaranty fees

"SEC. 507. The Commission shall prescribe and collect a guaranty fee in connection with each loan guaranteed under this part. Such fees shall not exceed such amounts as the Commission estimates to be necessary to cover the administrative costs of carrying out the provisions of this part. Sums realized from such fees shall be deposited in the Treasury as miscellaneous receipts.

"Assistance of departments or other agencies

"SEC. 508. (a) To permit it to make use of such expert advice and services as it may require in carrying out the provisions of this part, the Commission may use available services and facilities of departments and other agencies and instrumentalities of the Government, with their consent and on a reimbursable basis.

"(b) Departments, agencies, and instrumentalities of the Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this part.

"Administrative expenses

"SEC. 509. Administrative expenses under this part shall be paid from appropriations made to the Commission for administrative expenses.

"Termination of authority

"SEC. 510. The authority granted by this part shall terminate at the close of March 31, 1961, except that its provisions shall remain in effect thereafter for the purposes of guaranties made by the Commission prior to that time.

"AMENDMENTS TO SECTION 1 OF INTERSTATE COMMERCE ACT

"SEC. 3. Section 1 of the Interstate Commerce Act, as amended, is amended (1) by inserting in subparagraph (a) of paragraph (2) thereof, after the word 'aforesaid' and before the semicolon following that word, a comma and the words 'except as otherwise provided in this part' and (2) by striking out the period at the end of the proviso in subparagraph (a) of paragraph (17) thereof and inserting in lieu thereof the following: 'and except as otherwise provided in this part.'

"NEW SECTION 13A OF INTERSTATE COMMERCE ACT

"SEC. 4. The Interstate Commerce Act, as amended, is amended by inserting after section 13 thereof a new section 13a as follows:

"Discontinuance or change of certain operations or services

"SEC. 13a (1) A carrier or carriers subject to this part, if their rights with respect to the discontinuance or change, in whole or in part, of the operation or service of any train or ferry engaged in the transportation of passengers or property in interstate, foreign and intrastate commerce, or any of them, are subject to any provision of the constitution or statutes of any State or any regulation or order of (or are the subject of

any proceeding pending before) any court or an administrative or regulatory agency of any State, may, but shall not be required to, file with the Commission, mail to the Governor of each State in which such train or ferry is operated, and post in every station, depot or other facility served thereby, notice at least 30 days in advance of any such proposed discontinuance or change. The carrier or carriers filing such notice may discontinue or change any such operation or service pursuant to such notice except as otherwise ordered by the Commission pursuant to this section, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any court or State authority to the contrary notwithstanding. Upon the filing of such notice the Commission shall have authority during said 30 days' notice period, either upon complaint or upon its own initiative without complaint, to enter upon an investigation of the proposed discontinuance or change. Upon the institution of such investigation, the Commission, by order served upon the carrier or carriers affected thereby at least 10 days prior to the day on which such discontinuance or change would otherwise become effective, may require such train or ferry to be continued in operation or service, in whole or in part, pending hearing and decision in such investigation, but not for a longer period than 4 months beyond the date when such discontinuance or change would otherwise have become effective. If, after hearing in such investigation, whether concluded before or after such discontinuance or change has become effective, the Commission finds that the operation or service of such train or ferry is required by public convenience and necessity and will not unduly burden interstate or foreign commerce, the Commission may by order require the continuance or restoration of operation or service of such train or ferry, in whole or in part, for a period not to exceed 1 year from the date of such order. The provisions of this section shall not supersede the laws of any State or the orders or regulations of any administrative or regulatory body of any State applicable to such discontinuance or change unless notice as in this section provided is filed with the Commission. On the expiration of an order by the Commission after such investigation requiring the continuance or restoration of operation or service, the jurisdiction of any State as to such discontinuance or change shall no longer be superseded unless the procedure provided by this section shall again be invoked by the carrier or carriers.

"(2) The provisions of this section shall not apply to the operations of or services performed by any carrier by railroad on a line of railroad located wholly within a single State.

"(3) The Commission, in cooperation with State utilities commissions, shall make a study of the passenger train deficit problem and report thereon to the Congress not later than June 30, 1959, together with such recommendations as the Commission deems to be necessary or appropriate.

"AMENDMENT TO SECTION 15A OF THE INTERSTATE COMMERCE ACT

"SEC. 5. Section 15a of the Interstate Commerce Act, as amended, is amended by inserting after paragraph (2) thereof a new paragraph (3) as follows:

"(3) In a proceeding involving competition between carriers of different modes of transportation, subject to this act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of

any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this act.'

"AMENDMENT TO SECTION 203 (B) OF INTERSTATE COMMERCE ACT

"SEC. 6. (a) Clause (6) of subsection (b) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a colon and the following: 'Provided, That the words "property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" as used herein shall include property shown as "Exempt" in the "Commodity List," incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as "Not exempt": *Provided further, however, That notwithstanding the preceding proviso the words "property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" shall not be deemed to include frozen fruits, frozen berries, frozen vegetables, coffee, tea, cocoa, bananas, or hemp, and wool imported from any foreign country, wool tops and noils, or wool waste, carded but not spun, woven, or knitted and shall be deemed to include fish or shellfish, and fresh or frozen products thereof containing seafood as the basic ingredient, whether breaded, cooked or otherwise prepared (but not including fish and shellfish which have been treated for preserving, such as canned, smoked, salted, pickled, spiced, corned or kippered products);*'"

"(b) Unless otherwise specifically indicated therein, the holder of any certificate or permit heretofore issued by the Interstate Commerce Commission, or hereafter so issued pursuant to an application filed on or before the date on which this section takes effect, authorizing the holder thereof to engage as a common or contract carrier by motor vehicle in the transportation in interstate or foreign commerce of property made subject to the provisions of part II of the Interstate Commerce Act by paragraph (a) of this section, over any route or routes or within any territory, may without making application under that act engage, to the same extent and subject to the same terms, conditions and limitations, as a common or contract carrier by motor vehicle, as the case may be, in the transportation of such property, over such route or routes or within such Territory, in interstate or foreign commerce.

"(c) Subject to the provisions of section 210 of the Interstate Commerce Act, if any person (or its predecessor in interest) was in bona fide operation on June 1, 1958, over any route or routes or within any territory, in the transportation of property for compensation by motor vehicle made subject to the provisions of part II of that act by paragraph (a) of this section, in interstate or foreign commerce, and has so operated since that time (or if engaged in furnishing seasonal service only, was in bona fide operation on June 1, 1958, during the season ordinarily covered by its operations and has so operated since that time), except in either instance as to interruptions of service over which such applicant or its predecessor in interest had no control, the Interstate Commerce Commission shall without further proceedings issue a certificate or permit, as the type of operation may warrant, authorizing such operations as a common or contract carrier by motor vehicle if application is made to the said Commission as provided in part II of the Interstate Commerce Act and within 120 days after the date on which this section takes effect. Pending the determination of

any such application, the continuance of such operation without a certificate or permit shall be lawful. Any carrier which on the date this section takes effect is engaged in an operation of the character specified in the foregoing provisions of this paragraph, but was not engaged in such operation on June 1, 1958, may under such regulations as the Interstate Commerce Commission shall prescribe, if application for a certificate or permit is made to the said Commission within 120 days after the date on which this section takes effect, continue such operation without a certificate or permit pending the determination of such application in accordance with the provisions of part II of the Interstate Commerce Act.

"AMENDMENT TO SECTION 203 (C) OF INTERSTATE COMMERCE ACT

"SEC. 7. Subsection (c) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the period at the end thereof and inserting in lieu of such period a comma and the following: 'nor shall any person in connection with any other business enterprise transport property by motor vehicle in interstate or foreign commerce unless such transportation is incidental to, and in furtherance of, a primary business enterprise (other than transportation) of such person.'

JURISDICTION OF COURTS IN CERTAIN CITIZENSHIP CASES

Mr. SMITH of Virginia. Mr. Speaker, I call up House Resolution 582 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 11102) amending the jurisdiction of district courts in civil actions with regard to the amount in controversy and diversity of citizenship. After general debate, which shall be confined to the bill, and shall continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the 5-minute rule. It shall be in order to consider without the intervention of any point of order the substitute amendment recommended by the Committee on the Judiciary now in the bill and such substitute for the purpose of amendment shall be considered under the 5-minute rule as an original bill. At the conclusion of such consideration the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any of the amendments adopted in the Committee of the Whole to the bill or Committee substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. SMITH of Virginia. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio [Mr. Brown], and I yield myself 5 minutes.

Mr. Speaker, this bill that this rule makes in order comes from the Committee on the Judiciary and deals with a rather technical subject, that of the removal of causes, by reason of diversity of citizenship, from State courts to Federal courts.

We have passed in this House a bill in previous sessions which raises the juris-

ditional amount from \$3,000 to \$10,000. You know, under the Constitution, where there is diversity of citizenship between the plaintiff and the defendant in a suit, the defendant may remove the cause to the Federal court from the State court. The amount fixed at the present time is \$3,000; that was many years ago. The amount is so small that now it permits a great many petty cases to be removed to the Federal court.

We have heard a lot of discussion in recent times—and it is a very serious question—about the way Federal courts are being overwhelmed with work so that many of them are years behind in their dockets. The best way to take care of that situation is to relieve, as far as we properly can, the Federal court from some of the petty cases that should be tried in the State courts where they belong.

I had hoped that the bill would go much further than that, but the committee did not go along with me. We have this sort of situation that is burdening the Federal courts tremendously. On diversity of citizenship we have a legal fiction which makes a corporation a citizen of the State in which it is incorporated. Therefore, if it does business in another State, it is not a citizen of that State and they can remove all their cases to the Federal court, at great inconvenience to litigants and to the great inconvenience of the Federal courts.

I was in hopes that the committee would go along with the idea of removing that fiction. In fact, I had prepared an amendment, which I shall not offer because of the objection of the committee; but the amendment would provide that no case could be removed from a State court to the Federal court on the question of diversity of citizenship where the corporation defendant was authorized to do business in that State. In other words, if they were authorized to do business in the State of Virginia, then they would have to abide by the jurisdiction of the State courts. However, the Committee on the Judiciary, I believe, has agreed to an amendment which will relieve the courts in many States of a great deal of work. That amendment is simply this. There are 4, or 5, or 6 States in the Union where these compensation cases are being removed in great number to the Federal courts. Some courts are very much overburdened with that type of case.

This amendment, which I shall offer and which I believe has the sanction of the committee, will provide that in workmen's compensation cases, the case may not be removed by a corporation to the Federal courts. Those cases have resulted, in those particular States, I am told, in a great deal of congestion in the Federal courts. There is no reason in the world why that should be the case.

As a matter of fact, I had a letter the other day from our former colleague, Judge Thomasson, who saw that I had introduced a similar bill. He said it hampered his work, the time taken up with these compensation cases, in view

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued July 23, 1958
For actions of July 22, 1958
85th-2d, No. 123

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HIGHLIGHTS: House passed supplemental appropriation bill. Senate passed trade agreements extension bill. House agreed to conference report on independent offices appropriation bill. Rep. Sullivan urged enactment of food stamp plan.

HOUSE

1. APPROPRIATIONS. Passed with amendment H. R. 13450, the supplemental appropriation bill for 1959 (pp. 13362-380). A point of order was sustained against an amendment by Rep. Gross that would have provided that none of the funds would be used for publicity or propaganda purposes designed to support or defeat legislation pending before the Congress (p. 13380). See Digest 121 for items of interest to this Department.

Agreed to the conference report on H. R. 11574, the independent offices appropriation bill for 1959, and acted on amendments in disagreement. Voted to insist on disagreement to a Senate amendment which would delete the House language providing for Federal payment of \$589 million to the Civil Service Retirement and Disability Fund. pp. 13356-62

The Appropriations Committee reported without amendment H. R. 13489, the Defense Department military construction appropriation bill for 1959 (H. Rept. 2238). pp. 13355, 13384

2. FAMILY FARMS. The "Daily Digest" states as follows: "Committee on Agriculture: Subcommittee on Family Farms met in executive session to continue consideration

of H. R. 11844 and H. R. 12239, bills establishing a country life commission. The committee amended H. R. 11184, and voted to report a clean bill, incorporating such amendments, to the full committee." p. D716

3. FORESTRY. A subcommittee of the Interior and Insular Affairs Committee ordered reported with amendment S. 1748, to add certain lands in Idaho and Wyo. to the Caribou and Targhee National Forests, and S. 2517, to authorize the States to choose mineral lands in making selections in lieu of sections of public lands occupied before State claims were made. p. D717
4. MINERALS. A subcommittee of the Interior and Insular Affairs Committee ordered reported with amendment S. 4036, to provide stabilization payments to certain minerals producers. p. D717
5. TRANSPORTATION. Conferees agreed to file a report on S. 3778, the omnibus transportation bill. p. D718
6. ROADS. The Public Works Committee ordered reported H. R. 12808, to amend the Federal-Aid Highway Act so as to extend for an additional two years the approved basis for the apportionment of funds for the Interstate Highway System. p. D718
7. MINERAL LEASES. Conferees were appointed on S. 2069, to amend the Mineral Leasing Act so as to increase the aggregate acreage of coal leases which may be held by one person in any one State. Senate conferees have been appointed. p. 13380
8. ELECTRIFICATION. Agreed to the conference report on H. R. 13121, authorizations for appropriations for AEC projects for 1959. p. 13362
9. FOOD STAMP PLAN. Rep. Sullivan urged amendment of S. 3420, to extend Public Law 480, to include provisions authorizing the establishment of a food stamp plan. She stated that "Public Law 480 is a food-stamp plan for the whole world - except for our own hungry." pp. 13355-56
10. PERSONNEL AWARDS. Rep. Wainwright spoke in favor of legislation to provide a Medal for Distinguished Civilian Achievement. p. 13356
11. STATEHOOD. Rep. Saylor urged immediate consideration of legislation to provide statehood for Hawaii. pp. 13381-82
12. LEGISLATIVE PROGRAM. At the request of Rep. McCormack unanimous consent was granted for the call of the private calendar on Tues., July 29, and for taking up bills under suspension of the rules on that day. p. 13355

SENATE

13. TRADE AGREEMENTS. Passed, 72 to 16, with amendments H. R. 12591, to amend and extend the Reciprocal Trade Agreements Act (pp. 13283, 13291-13350). Senate conferees were appointed. House conferees have not been appointed. Adopted the following amendments:
 - By Sens. Johnson and Knowland, 63 to 27, to strike from the bill sections 6 and 7, which would have provided that the President could override recommendations of the Tariff Commission only with the concurrence of the Congress (pp. 13291-13304);
 - By Sen. Morse, to consider growers of a commodity as a part of the industry in assessing injuries under the escape clause (pp. 13325-30);

July 24, 1958

HOUSE

9. MARKETING; LOANS. Rejected, 164 to 211, a resolution for consideration of H. R. 4504, to guarantee loans for improvement and development of central markets for perishable agricultural commodities. pp. 13596-605
10. REA. Rep. Christopher commended the REA program and urged enactment of legislation to transfer to the REA Administrator those functions given to the Secretary of Agriculture in Reorganization Plan No. 2 of 1953. pp. 13621-2
11. APPROPRIATIONS. Passed without amendment H. R. 13489, military construction appropriations for 1959 (pp. 13562-95). Reps. Cannon and Taber criticized the Senate for passing bills granting direct borrowing authority or public debt transactions when such bills did not originate in the House, contending that this evaded the Constitutional requirement that all appropriations originate in the House (pp. 13573-4)
Received the conference report on H. R. 13066, the legislative branch appropriation bill for 1959 (H. Rept. 2275). pp. 13595-6, 13623.
12. TRANSPORTATION. Received the conference report on S. 3778, to strengthen the national transportation system (H. Rept. 2274) (pp. 13606-10, ~~13623~~). The conferees agreed to freeze the agricultural commodities exemption in accordance with ICC Ruling 107, modified to return to economic regulation frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, hemp, wool imports, wool tops and noils and wool waste which has been carded, spun, woven, or knitted; and to exempt the transportation of cooked or uncooked (including breaded) fish or shell fish when frozen or fresh, but not if treated for preserving (canned, smoked, pickled, spiced, corned or kippered products). The conferees also agreed to allow truckers engaged in such transportation as of May 1, 1958, to become certified.
13. MINERALS. The Interior and Insular Affairs Committee reported with amendments S. 3199, to specify the period for doing annual assessment work on unpatented mineral claims and suspending such work for the year ending July 1, 1958 (H. Rept. 2262). p. 13623
The Interior and Insular Affairs Committee reported with amendments S. 3817, to authorize loans for the development of mineral resources in the U. S. (H. Rept. 2276). p. 13623
14. PERSONNEL. The Post Office and Civil Service Committee reported with amendment H. R. 1168, to restore the pay of officers or employees to the level of the grade held before downgrading in certain cases. (H. Rept. 2269). p. 13623
15. HOUSING. The Housing Subcommittee ordered reported to the Banking and Currency Committee a committee print with respect to general housing legislation. p. D732
16. DESERT-LAND ENTRIES. The Interior and Insular Affairs Committee ordered reported with amendment S. 359, to permit desert land entries on disconnected tracts of land aggregating less than 320 acres and form a compact unit. p. D733
17. CHEMICAL ADDITIVES. The Rules Committee denied the granting of a rule on H. R. 9521, to amend the Federal Food, Drug, and Cosmetic Act so as to revise the definition of the term "chemical additive" to provide that it shall not include any pesticide chemicals when used in or on any raw agricultural commodity which is produced from the soil. p. D733

18. SCHOOL LUNCH. Rep. Barrett urged increased appropriations for the school lunch program and legislation to broaden the commodity distribution program to include a wider variety of foods. pp. 13584-5
19. LEGISLATIVE PROGRAM. Rep. McCormack announced that except for the conference report on the legislative appropriation bill there was no legislative business on Fri., July 25, and that there will be no roll call votes until Wed., July 30. p. 13618

ITEMS IN APPENDIX

20. FOREIGN AID. Sen. Dirksen inserted a statement prepared by ICA refuting certain allegations of maladministration of foreign aid programs made before Senate and House Committees by witnesses. pp. A6641-2
21. FORESTRY. Rep. McIntire inserted a report on Squaw Mountain Lookout and its relationship to the development of our Nation's forest fire fighting system. pp. A6648-9
Rep. Sikes inserted an article describing the expansion of the southern pulp and paper industry during the past 20 years. pp. A6678-9
22. FISHERIES. Extension of remarks of Rep. Pelly urging enactment of legislation to aid certain fish farmers. p. A6649
23. SURPLUS FOOD. Rep. McGovern stated that "for the past several years high administration officials and particularly the Secretary of Agriculture have bemoaned the existence of surplus farm commodities in the United States," and inserted an editorial, "Food Supply Shortage Seen If War Comes." p. A6651
24. FARM PROGRAM. Speech in the House of Rep. Cannon criticizing the administrations' farm program. pp. A6679-83
25. DEPRESSED AREAS. Rep. Scott inserted an article, "Depressed Areas Need Help of Congress Now." p. A6672
26. STATEHOOD. Sen. Neuberger inserted an article commending Dr. Ernest Gruening for his work and efforts toward statehood for Alaska. pp. A6661-2
Sen. Neuberger inserted several articles expressing interest in the characteristics and the economic future of Alaska. pp. A6664-6

BILLS INTRODUCED

27. FLAG. H. R. 13522, by Rep. Bartlett, to provide for the arrangement of the stars of the union on the flag of the United States after the admission of new States into the Union; to Judiciary Committee.
28. RECLAMATION. H. R. 13523, by Rep. Chenoweth, to authorize the construction, operation, and maintenance by the Secretary of the Interior of the Fryingpan-Arkansas project, Colorado; to Interior and Insular Affairs Committee.
29. PROPERTY. H. R. 13525, by Rep. Dawson, Ill. (by request), to amend the Federal Property and Administrative Services Act of 1949 to extend the authority of the Administrator of General Services to pay direct expenses in connection with the utilization of excess property; to Government Operations Committee.

TRANSPORTATION ACT OF 1958

JULY 24, 1958.—Ordered to be printed

Mr. HARRIS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 3778]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3778) to amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following: *That this Act may be cited as the "Transportation Act of 1958"*.

AMENDMENT TO INTERSTATE COMMERCE ACT, RELATING TO LOAN GUARANTIES

SEC. 2. The Interstate Commerce Act, as amended, is amended by inserting immediately after part IV thereof the following new part:

"PART V

"PURPOSE

"SEC. 501. It is the purpose of this part to provide for assistance to common carriers by railroad subject to this Act to aid them in acquiring, constructing, or maintaining facilities and equipment for such purposes, and in such a manner, as to encourage the employment of labor and to foster the preservation and development of a national transportation system adequate to meet the needs of the commerce of the United States, of the postal service, and of the national defense.

"DEFINITIONS

"SEC. 502. For the purposes of this part—

"(a) The term 'Commission' means the Interstate Commerce Commission.

"(b) The term 'additions and betterments or other capital expenditures' means expenditures for the acquisition or construction of property used in transportation service, chargeable to the road, property, or equipment investment accounts, in the Uniform System of Accounts prescribed by the Interstate Commerce Commission.

"(c) The term 'expenditures for maintenance of property' means expenditures for labor, materials, and other costs incurred in maintaining, repairing, or renewing equipment, road, or property used in transportation service chargeable to operating expenses in accordance with the Uniform System of Accounts prescribed by the Commission.

"LOAN GUARANTIES

"SEC. 503. In order to carry out the purpose declared in section 501, the Commission, upon terms and conditions prescribed by it and consistent with the provisions of this part, may guarantee in whole or in part any public or private financing institution, or trustee under a trust indenture or agreement for the benefit of the holders of any securities issued thereunder, by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan, discount, or advance, or on any commitment in connection therewith, which may be made, or which may have been made, for the purpose of aiding any common carrier by railroad subject to this Act in the financing or refinancing (1) of additions and betterments or other capital expenditures, made after January 1, 1957, or to reimburse the carrier for expenditures made from its own funds for such additions and betterments or other capital expenditures, or (2) of expenditures for the maintenance of property : Provided, That in no event shall the aggregate principal amount of all loans guaranteed by the Commission exceed \$500,000,000.

"LIMITATIONS

"SEC. 504. (a) No guaranty shall be made under section 503—

"(1) unless the Commission finds that without such guaranty, in the amount thereof, the carrier would be unable to obtain necessary funds, on reasonable terms, for the purposes for which the loan is sought;

"(2) if in the judgment of the Commission the loan involved is at a rate of interest which is unreasonably high;

"(3) if the terms of such loan permit full repayment more than fifteen years after the date thereof; or

"(4) unless the Commission finds that the prospective earning power of the applicant carrier, together with the character and value of the security pledged, if any, furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and reasonable protection to the United States.

A statement of the findings of the Commission required under the provisions of this subsection shall be made a matter of public record by the Commission with respect to each loan guaranteed under the provisions of this part.

"(b) It shall be unlawful for any common carrier by railroad subject to this Act to declare any dividend on its preferred or common stock while there is any principal or interest remaining unpaid on any loan to such carrier made for the purpose of financing or refinancing expenditures for maintenance of property of such carrier, and guaranteed under this part.

"MODIFICATIONS

"SEC. 505. The Commission may consent to the modification of the provisions as to rate of interest, time of payment of interest or principal, security, if any, or other terms and conditions of any guaranty which it shall have entered into pursuant to this part, or the renewal or extension of any such guaranty, whenever the Commission shall determine it to be equitable to do so.

"PAYMENT OF GUARANTIES; ACTION TO RECOVER PAYMENTS MADE

"SEC. 506. (a) Payments required to be made as a consequence of any guaranty by the Commission made under this part shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for the purpose of carrying out the provisions of this part.

"(b) In the event of any default on any such guaranteed loan, and payment in accordance with the guaranty by the United States, the Attorney General shall take such action as may be appropriate to recover the amount of such payments, with interest, from the defaulting carrier, carriers, or other persons liable therefor.

"GUARANTY FEES

"SEC. 507. The Commission shall prescribe and collect a guaranty fee in connection with each loan guaranteed under this part. Such fees shall not exceed such amounts as the Commission estimates to be necessary to cover the administrative costs of carrying out the provisions of this part. Sums realized from such fees shall be deposited in the Treasury as miscellaneous receipts.

"ASSISTANCE OF DEPARTMENTS OR OTHER AGENCIES

"SEC. 508. (a) To permit it to make use of such expert advice and services as it may require in carrying out the provisions of this part, the Commission may use available services and facilities of departments and other agencies and instrumentalities of the Government, with their consent and on a reimbursable basis.

"(b) Departments, agencies, and instrumentalities of the Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this part.

"ADMINISTRATIVE EXPENSES

"SEC. 509. Administrative expenses under this part shall be paid from appropriations made to the Commission for administrative expenses.

"TERMINATION OF AUTHORITY"

"SEC. 510. Except with respect to such applications as may then be pending, the authority granted by this part shall terminate at the close of March 31, 1961: Provided, That its provisions shall remain in effect thereafter for the purposes of guaranties made by the Commission."

AMENDMENTS TO SECTION 1 OF INTERSTATE COMMERCE ACT

SEC. 3. Section 1 of the Interstate Commerce Act, as amended, is amended (1) by inserting in subparagraph (a) of paragraph (2) thereof, after the word "aforesaid" and before the semicolon following that word, a comma and the words "except as otherwise provided in this part" and (2) by striking out the period at the end of the proviso in subparagraph (a) of paragraph (17) thereof and inserting in lieu thereof the following: "and except as otherwise provided in this part."

INTRASTATE RATES, FARES, CHARGES, CLASSIFICATIONS, REGULATIONS,
OR PRACTICES

SEC. 4. The first sentence of paragraph (4) of section 13 of the Interstate Commerce Act, as amended, is amended to read as follows:

"(4) Whenever in any such investigation the Commission, after full hearing, finds that any such rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against, or undue burden on, interstate or foreign commerce (which the Commission may find without a separation of interstate and intrastate property, revenues, and expenses, and without considering in totality the operations or results thereof of any carrier, or group or groups of carriers wholly within any State), which is hereby forbidden and declared to be unlawful, it shall prescribe the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, preference, prejudice, discrimination, or burden: Provided, That upon the filing of any petition authorized by the provisions of paragraph (3) hereof to be filed by the carrier concerned, the Commission shall forthwith institute an investigation as aforesaid into the lawfulness of such rate, fare, charge, classification, regulation, or practice (whether or not theretofore considered by any State agency or authority and without regard to the pendency before any State agency or authority of any proceeding relating thereto) and shall give special expedition to the hearing and decision therein."

NEW SECTION 13A OF INTERSTATE COMMERCE ACT

SEC. 5. *The Interstate Commerce Act, as amended, is amended by inserting after section 13 thereof a new section 13a as follows:*

"DISCONTINUANCE OR CHANGE OF CERTAIN OPERATIONS OR SERVICES

"SEC. 13a. (1) A carrier or carriers subject to this part, if their rights with respect to the discontinuance or change, in whole or in part, of the operation or service of any train or ferry operating from a point in one State to a point in any other State or in the District of Columbia, or from a point in the District of Columbia to a point in any State, are subject to any provision of the constitution or statutes of any State or any regulation or order of (or are the subject of any proceeding pending before) any court or an administrative or regulatory agency of any State, may, but shall not be required to, file with the Commission, and upon such filing shall mail to the Governor of each State in which such train or ferry is operated, and post in every station, depot or other facility served thereby, notice at least thirty days in advance of any such proposed discontinuance or change. The carrier or carriers filing such notice may discontinue or change any such operation or service pursuant to such notice except as otherwise ordered by the Commission pursuant to this paragraph, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any court or State authority to the contrary notwithstanding. Upon the filing of such notice the Commission shall have authority during said thirty days' notice period, either upon complaint or upon its own initiative without complaint, to enter upon an investigation of the proposed discontinuance or change. Upon the institution of such investigation, the Commission, by order served upon the carrier or carriers affected thereby at least ten days prior to the day on which such discontinuance or change would otherwise become effective, may require such train or ferry to be continued in operation or service, in whole or in part, pending hearing and decision in such investigation, but not for a longer period than four months beyond the date when such discontinuance or change would otherwise have become effective. If, after hearing in such investigation, whether concluded before or after such discontinuance or change has become effective, the Commission finds that the operation or service of such train or ferry is required by public convenience and necessity and will not unduly burden interstate or foreign commerce, the Commission may by order require the continuance or restoration of operation or service of such train or ferry, in whole or in part, for a period not to exceed one year from the date of such order. The provisions of this paragraph shall not supersede the laws of any State or the orders or regulations of any administrative or regulatory body of any State applicable to such discontinuance or change unless notice as in this paragraph provided is filed with the Commission. On the expiration of an order by the Commission after such investigation requiring the continuance or restoration of operation or service, the jurisdiction of any State as to such discontinuance or change shall no longer

be superseded unless the procedure provided by this paragraph shall again be invoked by the carrier or carriers.

“(2) Where the discontinuance or change, in whole or in part, by a carrier or carriers subject to this part, of the operation or service of any train or ferry operated wholly within the boundaries of a single State is prohibited by the constitution or statutes of any State or where the State authority having jurisdiction thereof shall have denied an application or petition duly filed with it by said carrier or carriers for authority to discontinue or change, in whole or in part, the operation or service of any such train or ferry or shall not have acted finally on such an application or petition within one hundred and twenty days from the presentation thereof, such carrier or carriers may petition the Commission for authority to effect such discontinuance or change. The Commission may grant such authority only after full hearing and upon findings by it that (a) the present or future public convenience and necessity permit of such discontinuance or change, in whole or in part, of the operation or service of such train or ferry, and (b) the continued operation or service of such train or ferry without discontinuance or change, in whole or in part, will constitute an unjust and undue burden upon the interstate operations of such carrier or carriers or upon interstate commerce. When any petition shall be filed with the Commission under the provisions of this paragraph the Commission shall notify the Governor of the State in which such train or ferry is operated at least thirty days in advance of the hearing provided for in this paragraph, and such hearing shall be held by the Commission in the State in which such train or ferry is operated; and the Commission is authorized to avail itself of the cooperation, services, records and facilities of the authorities in such State in the performance of its functions under this paragraph.”

AMENDMENT TO SECTION 15A OF THE INTERSTATE COMMERCE ACT

SEC. 6. Section 15a of the Interstate Commerce Act, as amended, is amended by inserting after paragraph (2) thereof a new paragraph (3) as follows:

“(3) In a proceeding involving competition between carriers of different modes of transportation subject to this Act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this Act.”

AMENDMENT TO SECTION 203 (B) OF INTERSTATE COMMERCE ACT

SEC. 7. (a) Clause (6) of subsection (b) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a colon and the following: “Provided, That the words ‘property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof)’ as used herein shall include property shown as ‘Exempt’ in the ‘Commodity List’ incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers,

Interstate Commerce Commission, but shall not include property shown therein as 'Not exempt': Provided further, however, That notwithstanding the preceding proviso the words 'property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof)' shall not be deemed to include frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, and wool imported from any foreign country, wool tops and noils, or wool waste (carded, spun, woven, or knitted), and shall be deemed to include cooked or uncooked (including breaded) fish or shell fish when frozen or fresh (but not including fish and shell fish which have been treated for preserving, such as canned, smoked, pickled, spiced, corned or kippered products);".

(b) *Unless otherwise specifically indicated therein, the holder of any certificate or permit heretofore issued by the Interstate Commerce Commission, or hereafter so issued pursuant to an application filed on or before the date on which this section takes effect, authorizing the holder thereof to engage as a common or contract carrier by motor vehicle in the transportation in interstate or foreign commerce of property made subject to the provisions of part II of the Interstate Commerce Act by paragraph (a) of this section, over any route or routes or within any territory, may without making application under that Act engage, to the same extent and subject to the same terms, conditions and limitations, as a common or contract carrier by motor vehicle, as the case may be, in the transportation of such property, over such route or routes or within such territory, in interstate or foreign commerce.*

(c) *Subject to the provisions of section 210 of the Interstate Commerce Act, if any person (or its predecessor in interest) was in bona fide operation on May 1, 1958, over any route or routes or within any territory, in the transportation of property for compensation by motor vehicle made subject to the provisions of part II of that Act by paragraph (a) of this section, in interstate or foreign commerce, and has so operated since that time (or if engaged in furnishing seasonal service only, was in bona fide operation on May 1, 1958, during the season ordinarily covered by its operations and has so operated since that time), except in either instance as to interruptions of service over which such applicant or its predecessor in interest had no control, the Interstate Commerce Commission shall without further proceedings issue a certificate or permit, as the type of operation may warrant, authorizing such operations as a common or contract carrier by motor vehicle if application is made to the said Commission as provided in part II of the Interstate Commerce Act and within one hundred and twenty days after the date on which this section takes effect. Pending the determination of any such application, the continuance of such operation without a certificate or permit shall be lawful. Any carrier which on the date this section takes effect is engaged in an operation of the character specified in the foregoing provisions of this paragraph, but was not engaged in such operation on May 1, 1958, may under such regulations as the Interstate Commerce Commission shall prescribe, if application for a certificate or permit is made to the said Commission within one hundred and twenty days after the date on which this section takes effect, continue such operation without a certificate or permit pending the determination of such application in accordance with the provisions of part II of the Interstate Commerce Act.*

AMENDMENT TO SECTION 203 (C) OF INTERSTATE COMMERCE ACT

SEC. 8. Subsection (c) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the period at the end thereof and inserting in lieu of such period a comma and the following: "nor shall any person engaged in any other business enterprise transport property by motor vehicle in interstate or foreign commerce for business purposes unless such transportation is within the scope, and in furtherance, of a primary business enterprise (other than transportation) of such person."

And the House agree to the same.

OREN HARRIS,
KENNETH A. ROBERTS,
HARLEY O. STAGGERS,
WALTER ROGERS,
SAMUEL N. FRIEDEL,
JOHN J. FLYNT, Jr.,
TORBERT H. MACDONALD,
CHAS. A. WOLVERTON,
JOS. P. O'HARA,
ROBERT HALE,
WILLIAM L. SPRINGER,
STEVEN B. DEROUNIAN,
J. ARTHUR YOUNGER,

Managers on the Part of the House.

WARREN G. MAGNUSON,
GEORGE A. SMATHERS,
FRANK J. LAUSCHE,
JOHN W. BRICKER,
ANDREW F. SCHOEPPPEL,
WILLIAM A. PURTELL,

Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3778) to amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The bill as agreed to in conference (except for sec. 4) follows closely the substitute amendment which the House made to the Senate bill.

Except for clerical and minor drafting changes, the differences between the House amendment and the bill as agreed to in conference are as follows:

LOAN GUARANTIES

The bill agreed to in conference, as did the Senate bill and the House amendment, adds new provisions to the Interstate Commerce Act to authorize the Interstate Commerce Commission to guarantee certain loans of common carriers by railroad subject to that act.

Coverage.—The Senate bill provided for the guaranty of loans for capital expenditures, operating expenses (which includes maintenance), working capital, and interest on existing obligations. The House amendment provided for the guaranty of loans for capital expenditures and for not more than 50 percent of any loan for maintenance, such 50 percent limitation being based on maintenance charges in the preceding calendar year. The bill as agreed to in conference provides for the guaranty of loans for capital expenditures and maintenance (with the 50 percent House limitation being eliminated).

Maximum aggregate principal amount.—The Senate bill provided that the aggregate of all loans guaranteed, including unpaid interest, should not exceed \$700,000,000, of which no more than \$150,000,000 could be loans for operating expenses and interest on existing obligations. The House amendment contained no maximum aggregate limitation with respect to loan guaranties. The bill as agreed to in conference provides that in no event shall the aggregate principal amount of all loans guaranteed by the Commission exceed \$500,000,000.

Limitations.—The Senate bill and the House amendment each provided that the Commission could not make a guaranty unless certain conditions or limitations were satisfied.

As was pointed out above, the conference substitute omits the 50 percent limitation on maintenance loans which was in the House amendment. Therefore, there is also omitted from the conference substitute a provision of the House amendment (added by a floor amendment) which would have barred the making of a guaranty in the case of a loan for maintenance expenditures—

* * * if the Commission fails to determine that on the date of the application the carrier has substantial deferred ex-

penditures for maintenance of property, that such deferral has been required by the carrier's financial condition and that the carrier and lender have made arrangements which provided reasonable assurance that the proceeds of the loan will be used only to raise the annual level of maintenance expenditures by the carrier over the average annual level of such expenditures by the carrier during the period when such maintenance expenditures were being deferred.

A limitation taken from the Senate bill has been included, providing that no guaranty shall be made unless the Commission finds that the prospective earning power of the applicant carrier, together with the character and value of the security pledge, if any, furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and reasonable protection to the United States.

In other respects, the provisions limiting the authority of the Commission to make guaranties are substantially the same as the provisions contained in the House amendment.

A sentence has been included to require that with respect to each loan guaranteed by the Commission the findings which the Commission must make, under the provisions above referred to imposing restrictions on the making of guaranties, shall be made a matter of public record.

Termination of authority.—The Senate bill provided that the authority granted to guarantee loans should terminate December 31, 1960, except with respect to applications pending on that date, and that the provisions of the legislation should remain in effect after that date with respect to guaranties made by the Commission. The House amendment was the same as the Senate provision except that (1) the termination date was March 31, 1961, and (2) guaranties would not have been permitted in case of applications pending (but not approved) as of the termination date. The bill as agreed to in conference follows the Senate provision except that the House termination date of March 31, 1961, has been adopted.

SECTION 4 OF THE BILL AGREED TO IN CONFERENCE

This section embodies (with certain modifications) a portion of the provisions of section 3 of the Senate bill. That section of the Senate bill proposed to amend section 13 of the Interstate Commerce Act by rewriting paragraph (4) thereof and by adding thereto a new paragraph (5).

The subject matter involved is the authority of the Interstate Commerce Commission to remove discriminations against interstate commerce, primarily by making adjustments in intrastate rates of carriers by railroad subject to the Commission's jurisdiction.

This authority has been exercised by the Commission for many years under the existing law. However, principally because of certain recent Supreme Court decisions, referred to below, it is necessary to modify the existing law to strengthen it and make it more effective.

In the Shreveport case, *Houston, E. & W. T. R. Co. v. United States* (234 U. S. 342), decided June 8, 1914, the Supreme Court held that under the antidiscrimination provisions of the Interstate Commerce Act it was unlawful for railroads to maintain intrastate rates which caused discrimination against interstate commerce and

that the Interstate Commerce Commission was authorized to require the removal of such discrimination even though the intrastate rates had been required by State authority. In 1920, by amendments to section 13 of the Interstate Commerce Act, Congress made this power explicit and prescribed procedure for its exercise. These provisions appear in section 13 (3) and (4) of that act.

Paragraph (4) of section 13 now empowers the Commission to require the removal of—

any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce, on the one hand, and interstate or foreign commerce, on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce—

caused by any intrastate rate, fare, charge, classification, regulation, or practice.

Section 4 of the bill agreed to in conference would amend paragraph (4) of section 13 in three particulars.

The first amendment is the insertion of the words “or undue burden on” in the present language describing the protection extended to interstate commerce. The addition of these words would serve to remove any doubt as to the Commission’s power in instances where, upon appropriate records, it finds, as it has done in some section 13 proceedings, that the burden cast upon interstate commerce by intrastate rates or charges is undue and therefore unjustly discriminatory. Such findings have been questioned in the courts. This proposed change would thus afford the Commission additional statutory support needed in the administration of section 13.

The second amendment is the insertion of the following words:

(which the Commission may find without a separation of interstate and intrastate property, revenues, and expenses and without considering in totality the operations or results thereof of any carrier, or group or groups of carriers wholly within any State).

With this amendment, in order to exercise its jurisdiction over intrastate rates, the Commission still must find that such rates cause undue, unreasonable, or unjust discrimination against, or undue burden on interstate commerce. The amendment deals only with the nature of the evidence to support such a finding. By two recent decisions of the Supreme Court (*Chicago, Milwaukee, St. Paul and Pacific Railroad Co. v. State of Illinois* (January 13, 1958), 356 U. S. 906, and *Public Service Commission of Utah v. United States* (May 19, 1958), 356 U. S. 421), the Commission is required to consider the entire State operation, freight and passenger, in determining whether or not the intrastate freight rates were causing an undue revenue discrimination against interstate commerce. If the holdings in these cases mean that the required finding of—

undue, unreasonable, or unjust discrimination against, or undue burden on, interstate or foreign commerce—

can be made only in the light of the overall statewide totality of a carrier’s operating results derived from its entire body of rates appli-

cable within the State, it would preclude the Commission from making such a finding on a showing of only the effect of the particular rate or rates in question. The Commission could not, under such an interpretation, continue to function effectively in removing unjust discrimination against interstate commerce caused by intrastate rates and charges.

Rather than the amendment causing a change, it is the possible interpretation of these recent court decisions that would create a change in the present regulatory scheme. As stated in the dissenting opinion (of four justices) in the Utah case, a consequence of the decisions—

would be a radical, and in all likelihood unworkable, change in the way the Commission has administered the provisions of section 13 (4) for over 35 years.

It is essential, therefore, that this provision be enacted into law.

The third amendment is the addition of a proviso at the end of the first sentence of paragraph (4), directing the Commission, in this type of discrimination case, to exercise forthwith its authority by instituting an investigation and giving special expedition to the hearing and decision therein.

The purpose of this proviso is to avoid the delays which now ensue by reason of the practice generally on the part of the carriers of awaiting final action by the State authorities prior to filing a petition with this Commission for an investigation under section 13 (3). This has been the general practice, except where action on the part of the State authorities has been unduly delayed. The Commission also as a matter of comity has felt that it was undesirable to intervene while a matter is before a State commission and it has discouraged the filing with it of petitions in those circumstances. These practices have resulted in delays in removing discriminations against and burdens upon interstate commerce. The effect of this amendment would be to require the Commission to proceed promptly to a determination of such matters, regardless of the pendency of any proceedings before a State commission.

The above three amendments to paragraph (4) of section 13 do not vest the Commission with jurisdiction that it does not have today but deal with procedures in the exercise of that jurisdiction better to strengthen the protection of interstate commerce as designed in this provision of the act.

Section 3 of the Senate amendment also proposed to amend section 13 of the Interstate Commerce Act by adding a new paragraph (5) as follows:

(5) In any proceeding before the Commission involving an investigation of or authorization or permission for a general adjustment in rates, fares, or charges, or any of them, or carriers subject to this part for the transportation of property or passengers, or both, in interstate commerce throughout, or substantially throughout, the United States, or one or more of the three major rate classification territories thereof (Official, Western or Southern), any such carrier or carriers parties thereto may by petition seek authority or permission of the Commission for a comparable adjustment of rates, fares, or charges for the transportation of like property or

passengers wholly within an individual State or individual States. If, in such proceeding, the Commission finds (as it is hereby authorized to do) that authorizing or permitting an adjustment in interstate rates, fares, or charges without authorizing or permitting a comparable adjustment in intrastate rates, fares, or charges would cause, or create a circumstance of, advantage, preference, prejudice, discrimination or burden declared in paragraph (4) of this section to be unlawful, the Commission shall, incident to any adjustment it may authorize or permit in such interstate rates, fares, or charges, authorize or permit a comparable adjustment in such intrastate rates, fares, or charges. Pursuant to such authorization the said carrier or carriers, upon making any adjustment so authorized or permitted by the Commission in such interstate rates, fares, or charges may without further authority make a comparable adjustment in such intrastate rates, fares, or charges and adjustments so made in intrastate rates, fares, or charges shall be observed while continued in effect by the said carrier or carriers, the law of any State or the decision or order of any State authority to the contrary notwithstanding.

The bill as agreed to in conference does not contain the above-quoted paragraph (5) from the Senate bill, or any provision based thereon.

SECTION 5 OF THE BILL AGREED TO IN CONFERENCE

This section adds to the Interstate Commerce Act a new section 13a which would provide a method and procedures to make it possible for carriers by railroad subject to the Interstate Commerce Act to discontinue or change, in whole or in part, the operation or service of trains or ferries operated by such carriers, notwithstanding otherwise applicable State laws. At present the Interstate Commerce Commission has no jurisdiction over discontinuance of service unless a whole "line of railroad" is involved.

Both the Senate bill and the House amendment contained provisions on this subject, and the members of the committee of conference feel that the provisions of section 5 of the bill as agreed to in conference represent a reasonable and workable compromise of the controversial differences between the two Houses insofar as these provisions are concerned.

The proposed new section 13a, as contained in the bill agreed to in conference contains two paragraphs, designated (1) and (2).

Paragraph (1) deals with the discontinuance or change of the operation or service of a train or ferry—

operating from a point in one State to a point in any other State or in the District of Columbia, or from a point in the District of Columbia to a point in any State.

A procedure is set up whereby the carrier or carriers concerned may discontinue or change the operation or service (notwithstanding State law) upon giving 30 days' notice to the Interstate Commerce Commission (as well as certain other notice) of intention to do so. The Commission is given authority, during such 30-day period, upon

complaint or on its own initiative, to commence an investigation of the proposed discontinuance or change. The Commission may require that the train or ferry be continued in operation or service pending a decision by it, but not for more than 4 months beyond the date when the discontinuance or change would otherwise take effect. Upon completion of the investigation the Commission may require continuance or restoration of the operation or service in question for a period of not to exceed 1 year from the date of its order, but only if it finds that the operation or service is required by public convenience and necessity and will not unduly burden interstate or foreign commerce. In case the Commission has made an order requiring the continuance or restoration of operation or service, the jurisdiction of the State with respect thereto shall no longer be superseded unless the procedure provided for in this provision shall again be invoked by the carrier or carriers. The provisions of this paragraph (1) follow the provisions of the House amendment rather closely so far as procedure is concerned, but in the House amendment the coverage of the provision was expressed in terms of operations or services other than those—

performed by any carrier by railroad on a line of railroad located wholly within a single State.

Paragraph (2) of the proposed new section 13a, as contained in the bill agreed to in conference, deals with the discontinuance or change, in whole or in part, by a carrier or carriers of the same class referred to in paragraph (1), of the operation or service of any train or ferry operated "wholly within the boundaries of a single State." The paragraph would operate where such a carrier or carriers desires to discontinue or change any such operation or service, and where (1) the discontinuance or change is prohibited by the constitution or statutes of a State, (2) where the State authority having jurisdiction has denied an application duly filed for authority to discontinue or change the operation or service, or (3) where the State authority having jurisdiction shall not have acted finally on such application within 120 days from the presentation thereof. Under such circumstances this paragraph would permit the carrier or carriers to file with the Interstate Commerce Commission a petition for authority to effect the discontinuance or change in question. The Commission is given the power to grant the authority applied for, but only if it has had a full hearing on the matter and made a finding that—

(a) the present or future public convenience and necessity permit of such discontinuance or change, in whole or in part, of the operation or service of such train or ferry, and (b) the continued operation or service of such train or ferry without discontinuance or change, in whole or in part, will constitute an unjust and undue burden upon the interstate operations of such carrier or carriers or upon interstate commerce.

It is provided that in the case of any such proceeding, notification shall be given to the governor of the State concerned at least 30 days in advance of the commencement of the hearing by the Commission, and the Commission is required to hold such hearing in the State in which the train or ferry is operated. It is provided that the Commission may avail itself of the cooperation of the services and facilities

of the State authorities in the performance of its functions under this paragraph.

There has been omitted from the bill agreed to in conference a provision of the House amendment which would have directed the Interstate Commerce Commission to make a study and report on the passenger train deficit problem and to report thereon to Congress. On its own initiative the Commission has heretofore instituted a broad investigation which would include this subject, and if this provision of the House amendment were retained it might call for an unnecessary duplication of effort on the part of the Commission.

AGRICULTURAL COMMODITIES EXEMPTION

Section 7 of the bill agreed to in conference amends section 203 (b) (6) of the Interstate Commerce Act, with respect to the exemption from regulation of motor carrier transportation of certain agricultural commodities. Both the Senate bill and the House amendment contained provisions on this subject.

Under the Senate bill the agricultural-commodities exemption was frozen, with a slight modification, in accordance with ruling No. 107, dated March 19, 1958, of the Bureau of Motor Carriers, Interstate Commerce Commission. The same was true of the House amendment, but the modifications were somewhat different. The modification made by the House amendment included the return to economic regulation of the transportation by motor vehicle of frozen fruits, frozen berries, frozen vegetables, coffee, tea, cocoa, bananas, hemp, wool imported from any foreign country, wool tops and noils and wool waste which has been carded but not spun, woven, or knitted. This modification also included the exemption from economic regulation of the transportation by motor vehicle of fish or shellfish, and fresh or frozen products thereof containing seafood as the basic ingredient, whether breaded, cooked or otherwise prepared, but not including fish and shellfish which have been treated for preserving, such as canned, smoked, salted, pickled, spiced, corned, or kippered products.

Under the conference agreement the agricultural-commodities exemption is frozen in accordance with ruling No. 107, referred to above, with the following modification, which is a compromise between the Senate and House provisions: Returned to economic regulation is the transportation by motor vehicle of frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, hemp, wool imported from any foreign country, wool tops and noils and wool waste which has been carded, spun, woven, or knitted. Exempted from economic regulation is the transportation of cooked or uncooked (including breaded) fish or shellfish when frozen or fresh, but not including fish and shellfish which have been treated for preserving, such as canned, smoked, pickled, spiced, corned, or kippered products.

Under the House amendment any person engaged on June 1, 1958, in trucking the aforementioned commodities which are returned to economic regulation by this amendment would be entitled, upon application, to a certificate or permit allowing him, under regulation, to continue the transportation of the same commodities within the same areas or between the same points. The Senate bill used the date January 1, 1958. The conference agreement uses the date May 1, 1958.

PSEUDO-PRIVATE CARRIAGE OF PROPERTY BY MOTOR VEHICLE

Section 8 of the bill agreed to in conference amends section 203 (c) of the Interstate Commerce Act, which prohibits certain operations in the transportation of property by motor vehicle without first obtaining appropriate operating authority.

The Senate bill and the House amendment each proposed to amend this provision, and the amendments proposed were quite similar but not identical.

The House amendment provided that no person should, in connection with any business enterprise other than transportation, transport property by motor vehicle in interstate or foreign commerce unless such transportation was incidental to, and in furtherance of, a primary business enterprise, other than transportation, of such person. The conference agreement provides that no person, engaged in any business enterprise other than transportation, shall transport property by motor vehicle in interstate or foreign commerce for business purposes unless such transportation is within the scope and in furtherance of a primary business enterprise, other than transportation, of such person.

OREN HARRIS,
KENNETH A. ROBERTS,
HARLEY O. STAGGERS,
WALTER ROGERS,
SAMUEL N. FRIEDEL,
JOHN J. FLYNT, Jr.,
TORBERT H. MACDONALD,
CHAS. A. WOLVERTON,
JOS. P. O'HARA,
ROBERT HALE,
WILLIAM L. SPRINGER,
STEVEN B. DEROUNIAN,
J. ARTHUR YOUNGER,
Managers on the Part of the House.



Government are returned to the Treasury and with interest.

Mr. DELANEY. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and on a division (demanded by Mr. COOLEY), there were—ayes 54; noes 108.

Mr. COOLEY. Mr. Speaker, I demand the yeas and nays.

The SPEAKER. (after counting). Thirty-two Members have risen; not a sufficient number.

The yeas and nays were refused.

Mr. JENNINGS. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and I make the point of order that a quorum is not present.

The SPEAKER. Obviously a quorum is not present. The Doorkeeper will close the doors. The Sergeant at Arms will notify absent Members. The Clerk will call the roll.

The question was taken; and there were—yeas 164, nays 211, not voting 55, as follows:

[Roll No. 142]

YEAS—164

Abbltt	Fountain	O'Hara, Ill.
Abernethy	Frazier	O'Konski
Addonizio	Gathings	Passman
Albert	Grant	Patman
Alexander	Gray	Perkins
Anderson,	Griffin	Pilcher
Mont.	Hagen	Polk
Andrews	Haley	Porter
Ashmore	Hardy	Preston
Aspinall	Harris	Price
Bailey	Healey	Quie
Baldwin	Hemphill	Rains
Barden	Herlong	Reuss
Baring	Hill	Rhodes, Pa.
Beckworth	Holfield	Riley
Bennett, Fla.	Holtzman	Rivers
Bentley	Huddleston	Roberts
Blatnik	Hull	Rodino
Blitch	Jarman	Rogers, Colo.
Bolling	Jennings	Rogers, Fla.
Bonner	Johnson	Rogers, Tex.
Boykin	Jones, Ala.	Rooney
Boyle	Karsten	Roosevelt
Breeding	Kee	Santangelo
Brooks, Tex.	Keogh	Saund
Brown, Ga.	King	Scott, N. C.
Brown, Mo.	Kitchin	Selden
Burleson	Knutson	Shelley
Byrd	Kruger	Sikes
Cannon	Laird	Smith, Miss.
Carnahan	Landrum	Smith, Va.
Chelf	Lankford	Spence
Chenoweth	Lennon	Staggers
Christopher	Libonati	Steed
Coad	McCarthy	Teague, Calif.
Coffin	McCormack	Teague, Tex.
Colmer	McFall	Teller
Cooley	McGovern	Tewes
Davis, Ga.	McIntire	Thomas
Dawson, Ill.	McMillan	Thompson, N. J.
Delaney	Mack, Ill.	Thompson, Tex.
Dellay	Madden	Thornberry
Denton	Magnuson	Udall
Dollinger	Mahon	Ullman
Dorn, S. C.	Marshall	Westland
Doyle	Matthews	Wharton
Durham	Metcalf	Whitener
Edmondson	Mills	Whitten
Elliott	Mitchell	Wier
Everett	Montoya	Williams, Miss.
Faberstein	Morgan	Willis
Fascell	Moss	Winstead
Fisher	Multer	Yates
Flynt	Natcher	Zablocki
Forrester	Norrell	Zelenko

NAYS—211

Adair	Auchincloss	Bcamer
Alger	Avery	Becker
Allen, Calif.	Ayres	Bennett, Mich.
Allen, Ill.	Baker	Berry
Anderson,	Barrett	Betts
H. Carl	Bass, N. H.	Boland
Arnds	Bates	Bolton
Ashley	Baumhart	Bosch

Bow	Harden	O'Brien, Ill.
Bray	Harrison, Nebr.	O'Brien, N. Y.
Broomfield	Harrison, Va.	O'Hara, Minn.
Brown, Ohio	Harvey	O'Neill
Brownson	Haskell	Osmer
Broyhill	Hays, Ohio	Ostertag
Budge	Henderson	Patterson
Bush	Heseltun	Pelly
Byrne, Ill.	Hess	Pfost
Byrne, Pa.	Hiestand	Philbin
Byrnes, Wis.	Hillings	Pillion
Canfield	Hoffman	Poff
Carrigg	Holland	Powell
Cederberg	Holmes	Rabaut
Celler	Holt	Ray
Chamberlain	Horan	Reece, Tenn.
Chilperfield	Hosmer	Reed
Church	Hyde	Rees, Kans.
Clark	Ikard	Rhodes, Ariz.
Clevenger	Jackson	Riehlman
Corbett	Jensen	Robison, N. Y.
Coudert	Johansen	Robson, Ky.
Cramer	Judd	Rogers, Mass.
Cretella	Kean	Rutherford
Cunningham,	Keating	Saylor
Iowa	Kelly, N. Y.	Schenck
Cunningham,	Kilburn	Scherer
Nebr.	Kilday	Schwengel
Curtin	Kilgore	Scott, Pa.
Curtis, Mass.	Kirwan	Scrivner
Curtis, Mo.	Kluczynski	Scudder
Dague	Knox	Seely-Brown
Dawson, Utah	Lafare	Sheehan
Dennison	Lane	Siler
Dent	LeCompte	Simpson, Ill.
Derounlan	Lesinski	Simpson, Pa.
Devereux	Lipscomb	Smith, Calif.
Dingell	Loser	Springer
Dixon	McCulloch	Stauffer
Donohue	McDonough	Sullivan
Dooley	McGregor	Taber
Dorn, N. Y.	McIntosh	Taylor
Dwyer	McVey	Thomson, Wyo.
Evins	Macdonald	Tolleson
Fallon	Mack, Wash.	Tuck
Fenton	Mailliard	Ull
Fino	Martin	Vanik
Fogarty	Mason	Van Pelt
Forand	May	Van Zandt
Frelinghuysen	Meader	Vorys
Fulton	Merrrow	Vursell
Garmatz	Miller, Calif.	Walter
Gary	Miller, Md.	Weaver
Gavin	Miner, Nebr.	Widnall
George	Minshall	Wigglesworth
Glenn	Moore	Wilson, Calif.
Granahan	Morano	Wilson, Ind.
Green, Oreg.	Mumma	Withrow
Green, Pa.	Murray	Wolverton
Griffiths	Neal	Wright
Gross	Nicholson	Young
Gubser	Nimtz	Younger
Hale	Nix	
Halleck	Norblad	

NOT VOTING—55

Anfuso	Gregory	Prouty
Bass, Tenn.	Gwinn	Radwan
Belcher	Hays, Ark.	Robeson, Va.
Boggs	Hébert	Sadlak
Brooks, La.	Hoeven	St. George
Buckley	James	Sheppard
Burdick	Jenkins	Shuford
Collier	Jonas	Sieminski
Davis, Tenn.	Jones, Mo.	Sisk
Dies	Kearney	Smith, Kans.
Diggs	Kearns	Talle
Dowdy	Latham	Thompson, La.
Eberhart	Machrowicz	Trimble
Engle	Michel	Vinson
Feighan	Miller, N. Y.	Wainwright
Flood	Morris	Watts
Ford	Morrison	Williams, N. Y.
Friedel	Moulder	
Gordon	Poage	

So the resolution was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Anfuso for, with Mr. Hoeven against.
Mr. Hébert for, with Mr. Miller of New York against.

Mr. Flood for, with Mr. Kearns against.
Mr. Buckley for, with Mr. Prouty against.
Mr. Hays of Arkansas, for, with Mr. Friedel against.

Mr. Trimble for, with Mr. Machrowicz against.

Mr. Collier for, with Mr. Gwinn against.
Mr. Ford for, with Mr. James against.

Mr. Thompson of Louisiana, for, with Mr. Jenkins against.

Mr. Morrison for, with Mr. Smith of Kansas against.

Mr. Boggs for, with Mrs. St. George against.

Mr. Dowdy for, with Mr. Williams of New York against.

Mr. Engle for, with Mr. Sadlak against.

Mr. Sheppard for, with Mr. Radwan against.

Mr. Watts for, with Mr. Talle against.

Mr. Vinson for, with Mr. Kearney against.

Mr. Poage for, with Mr. Diggs against.

Mr. Moulder for, with Mr. Gordon against.

Until further notice:

Mr. Sieminski with Mr. Belcher.

Mr. Brooks of Louisiana, with Mr. Burdick.

Mr. Morris with Mr. Wainwright.

Mr. Shuford with Mr. Michel.

Mr. Sisk with Mr. Latham.

Mrs. GRANAHAN, Mr. MILLER of California, Mr. POWELL, and Mr. REECE of Kansas changed their vote from "yea" to "nay."

Mr. HOLTZMAN and Mr. O'KONSKI changed their vote from "nay" to "yea."

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE TO EXTEND REMARKS

Mr. COOLEY. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may extend their remarks in the RECORD in connection with the bill, H. R. 4504.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

INDIANS OF LOWER BRULE SIOUX RESERVATION, S. DAK.

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 640 and ask for its immediate consideration.

The Clerk read the resolution as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 12663) to provide for additional payment to the Indians of the Lower Brule Sioux Reservation, S. Dak., whose lands have been acquired for the Fort Randall Dam and Reservoir project, and for other purposes. After general debate, which shall be confined to the bill and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois [Mr. ALLEN] and now yield myself such time as I may consume.

Mr. Speaker, House Resolution 640 makes in order the consideration of

H. R. 12663. The resolution provides for an open rule and 1 hour of general debate on the bill.

In 1952 the Fort Randall Dam gates were closed and approximately 8,000 acres of the reservation land of the Lower Brule Sioux Tribe which had been acquired by condemnation were inundated. The amount payable for these lands has not been judicially determined and payment has not been made for incidental claims.

H. R. 12663 authorizes the Secretary of the Army to pay the tribe and individual Indian owners in settlement of all claims approximately \$904,600. This represents the difference between the amount of \$1,175,231 agreed upon by the Indians and the Government and \$270,610 which has already been deposited in court in condemnation proceedings. The sum of \$85,242 which represents increased land values between the date of taking and the present is to be allocated to the former owners on a prorated basis.

Final settlement with the Brule Sioux Tribe is long overdue and I urge the adoption of House Resolution 640.

Mr. ALLEN of Illinois. Mr. Speaker, I have no requests for time.

Mr. BOLLING. Mr. Speaker, I move the previous question.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CORRECTION OF ROLL CALL

Mr. WESTLAND. Mr. Speaker, on rollcall No. 139 I am recorded as being absent. I was present and answered to my name. I ask unanimous consent that the RECORD and Journal be corrected accordingly.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

TRANSPORTATION ACT OF 1958

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file a conference report on the bill (S. 3778) to amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The conference report and statement follow:

CONFERENCE REPORT (H. REPT. No. 2274)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3778) to amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and

agree to the same with an amendment as follows:—

In lieu of the matter proposed to be inserted by the House amendment insert the following: "That this Act may be cited as the 'Transportation Act of 1958'."

"AMENDMENT TO INTERSTATE COMMERCE ACT, RELATING TO LOAN GUARANTIES

"SEC. 2. The Interstate Commerce Act, as amended, is amended by inserting immediately after part IV thereof the following new part:

"PART V

"Purpose

"SEC. 501. It is the purpose of this part to provide for assistance to common carriers by railroad subject to this Act to aid them in acquiring, constructing, or maintaining facilities and equipment for such purposes, and in such a manner, as to encourage the employment of labor and to foster the preservation and development of a national transportation system adequate to meet the needs of the commerce of the United States, of the postal service, and of the national defense.

"Definitions

"SEC. 502. For the purposes of this part—
"(a) The term "Commission" means the Interstate Commerce Commission.

"(b) The term "additions and betterments or other capital expenditures" means expenditures for the acquisition or construction of property used in transportation service, chargeable to the road, property, or equipment investment accounts, in the Uniform System of Accounts prescribed by the Interstate Commerce Commission.

"(c) The term "expenditures for maintenance of property" means expenditures for labor, materials, and other costs incurred in maintaining, repairing, or renewing equipment, road, or property used in transportation service chargeable to operating expenses in accordance with the Uniform System of Accounts prescribed by the Commission.

"Loan guaranties

"SEC. 503. In order to carry out the purpose declared in section 501, the Commission, upon terms and conditions prescribed by it and consistent with the provisions of this part, may guarantee in whole or in part any public or private financing institution, or trustee under a trust indenture or agreement for the benefit of the holders of any securities issued thereunder, by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan, discount, or advance, or on any commitment in connection therewith, which may be made, or which may have been made, for the purpose of aiding any common carrier by railroad subject to this Act in the financing or refinancing (1) of additions and betterments or other capital expenditures, made after January 1, 1957, or to reimburse the carrier for expenditures made from its own funds for such additions and betterments or other capital expenditures, or (2) of expenditures for the maintenance of property: *Provided*, That in no event shall the aggregate principal amount of all loans guaranteed by the Commission exceed \$500,000,000.

"Limitations

"SEC. 504. (a) No guaranty shall be made under section 503—

"(1) unless the Commission finds that without such guaranty, in the amount thereof, the carrier would be unable to obtain necessary funds, on reasonable terms, for the purposes for which the loan is sought;

"(2) if in the judgment of the Commission the loan involved is at a rate of interest which is unreasonably high;

"(3) if the terms of such loan permit full repayment more than fifteen years after the date thereof; or

"(4) unless the Commission finds that the prospective earning power of the applicant carrier, together with the character and value of the security pledged, if any, furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and reasonable protection to the United States.

A statement of the findings of the Commission required under the provisions of this subsection shall be made a matter of public record by the Commission with respect to each loan guaranteed under the provisions of this part.

"(b) It shall be unlawful for any common carrier by railroad subject to this Act to declare any dividend on its preferred or common stock while there is any principal or interest remaining unpaid on any loan to such carrier made for the purpose of financing or refinancing expenditures for maintenance of property of such carrier, and guaranteed under this part.

"Modifications

"SEC. 505. The Commission may consent to the modification of the provisions as to rate of interest, time of payment of interest or principal, security, if any, or other terms and conditions of any guaranty which it shall have entered into pursuant to this part, or the renewal or extension of any such guaranty, whenever the Commission shall determine it to be equitable to do so.

"Payment of guaranties; action to recover payments made

"SEC. 506. (a) Payments required to be made as a consequence of any guaranty by the Commission made under this part shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for the purpose of carrying out the provisions of this part.

"(b) In the event of any default on any such guaranteed loan, and payment in accordance with the guaranty by the United States, the Attorney General shall take such action as may be appropriate to recover the amount of such payments, with interest, from the defaulting carrier, carriers, or other persons liable therefor.

"Guaranty fees

"SEC. 507. The Commission shall prescribe and collect a guaranty fee in connection with each loan guaranteed under this part. Such fees shall not exceed such amounts as the Commission estimates to be necessary to cover the administrative costs of carrying out the provisions of this part. Sums realized from such fees shall be deposited in the Treasury as miscellaneous receipts.

"Assistance of departments or other agencies

"SEC. 508. (a) To permit it to make use of such expert advice and services as it may require in carrying out the provisions of this part, the Commission may use available services and facilities of departments and other agencies and instrumentalities of the Government, with their consent and on a reimbursable basis.

"(b) Departments, agencies, and instrumentalities of the Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this part.

"Administrative expenses

"SEC. 509. Administrative expenses under this part shall be paid from appropriations made to the Commission for administrative expenses.

"Termination of authority

"SEC. 510. Except with respect to such applications as may then be pending, the authority granted by this part shall terminate at the close of March 31, 1961: *Provided*, That its provisions shall remain in effect thereafter

for the purposes of guaranties made by the Commission.'

"AMENDMENTS TO SECTION 1 OF INTERSTATE COMMERCE ACT

"Sec. 3. Section 1 of the Interstate Commerce Act, as amended, is amended (1) by inserting in subparagraph (a) of paragraph (2) thereof, after the word 'aforesaid' and before the semicolon following that word, a comma and the words 'except as otherwise provided in this part' and (2) by striking out the period at the end of the proviso in subparagraph (a) of paragraph (17) thereof and inserting in lieu thereof the following: 'and except as otherwise provided in this part.'

"INTRASTATE RATES, FARES, CHARGES, CLASSIFICATIONS, REGULATIONS, OR PRACTICES

"Sec. 4. The first sentence of paragraph (4) of section 13 of the Interstate Commerce Act, as amended, is amended to read as follows:

"(4) Whenever in any such investigation the Commission, after full hearing, finds that any such rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against, or undue burden on, interstate or foreign commerce (which the Commission may find without a separation of interstate and intrastate property, revenues, and expenses, and without considering in totality the operations or results thereof of any carrier, or group or groups of carriers wholly within any State), which is hereby forbidden and declared to be unlawful, it shall prescribe the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, preference, prejudice, discrimination, or burden: *Provided*, That upon the filing of any petition authorized by the provisions of paragraph (3) hereof to be filed by the carrier concerned, the Commission shall forthwith institute an investigation as aforesaid into the lawfulness of such rate, fare, charge, classification, regulation, or practice (whether or not theretofore considered by any State agency or authority and without regard to the pendency before any State agency or authority of any proceeding relating thereto) and shall give special expedition to the hearing and decision therein.'

"NEW SECTION 13A OF INTERSTATE COMMERCE ACT

"Sec. 5. The Interstate Commerce Act, as amended, is amended by inserting after section 13 thereof a new section 13a as follows:

"Discontinuance or change of certain operations or services

"Sec. 13a. (1) A carrier or carriers subject to this part, if their rights with respect to the discontinuance or change, in whole or in part, of the operation or service of any train or ferry operating from a point in one State to a point in any other State or in the District of Columbia, or from a point in the District of Columbia to a point in any State, are subject to any provision of the constitution or statutes of any State or any regulation or order of (or are the subject of any proceeding pending before) any court or an administrative or regulatory agency of any State, may, but shall not be required to, file with the Commission, and upon such filing shall mail to the Governor of each State in which such train or ferry is operated, and post in every station, depot or other facility served thereby, notice at least thirty days in advance of any such proposed discontinuance or change. The carrier or carriers filing such notice may discontinue or change any such operation or service

pursuant to such notice except as otherwise ordered by the Commission pursuant to this paragraph, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any court or State authority to the contrary notwithstanding. Upon the filing of such notice the Commission shall have authority during said thirty days' notice period, either upon complaint or upon its own initiative without complaint, to enter upon an investigation of the proposed discontinuance or change. Upon the institution of such investigation, the Commission, by order served upon the carrier or carriers affected thereby at least ten days prior to the day on which such discontinuance or change would otherwise become effective, may require such train or ferry to be continued in operation or service, in whole or in part, pending hearing and decision in such investigation, but not for a longer period than four months beyond the date when such discontinuance or change would otherwise have become effective. If, after hearing in such investigation, whether concluded before or after such discontinuance or change has become effective, the Commission finds that the operation or service of such train or ferry is required by public convenience and necessity and will not unduly burden interstate or foreign commerce, the Commission may by order require the continuance or restoration of operation or service of such train or ferry, in whole or in part, for a period not to exceed one year from the date of such order. The provisions of this paragraph shall not supersede the laws of any State or the orders or regulations of any administrative or regulatory body of any State applicable to such discontinuance or change unless notice as in this paragraph provided is filed with the Commission. On the expiration of an order by the Commission after such investigation requiring the continuance or restoration of operation or service, the jurisdiction of any State as to such discontinuance or change shall no longer be superseded unless the procedure provided by this paragraph shall again be invoked by the carrier or carriers.

"(2) Where the discontinuance or change, in whole or in part, by a carrier or carriers subject to this part, of the operation or service of any train or ferry operated wholly within the boundaries of a single State is prohibited by the constitution or statutes of any State or where the State authority having jurisdiction thereof shall have denied an application or petition duly filed with it by said carrier or carriers for authority to discontinue or change, in whole or in part, the operation or service of any such train or ferry or shall not have acted finally on such an application or petition within one hundred and twenty days from the presentation thereof, such carrier or carriers may petition the Commission for authority to effect such discontinuance or change. The Commission may grant such authority only after full hearing and upon findings by it that (a) the present or future public convenience and necessity permit of such discontinuance or change, in whole or in part, of the operation or service of such train or ferry, and (b) the continued operation or service of such train or ferry without discontinuance or change, in whole or in part, will constitute an unjust and undue burden upon the interstate operations of such carrier or carriers or upon interstate commerce. When any petition shall be filed with the Commission under the provisions of this paragraph the Commission shall notify the Governor of the State in which such train or ferry is operated at least thirty days in advance of the hearing provided for in this paragraph, and such hearing shall be held by the Commission in the State in which such train or ferry is operated; and the Commission is authorized to avail itself of the cooperation, services, rec-

ords and facilities of the authorities in such State in the performance of its functions under this paragraph.'

"AMENDMENT TO SECTION 15A OF THE INTERSTATE COMMERCE ACT

"Sec. 6. Section 15a of the Interstate Commerce Act, as amended, is amended by inserting after paragraph (2) thereof a new paragraph (3) as follows:

"(3) In a proceeding involving competition between carriers of different modes of transportation subject to this Act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this Act.'

"AMENDMENT TO SECTION 203 (B) OF INTERSTATE COMMERCE ACT

"Sec. 7. (a) Clause (6) of subsection (b) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a colon and the following: *Provided*, That the words "property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" as used herein shall include property shown as "Exempt" in the "Commodity List" incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as "Not exempt": *Provided further, however*, That notwithstanding the preceding proviso the words "property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" shall not be deemed to include frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, and wool imported from any foreign country, wool tops and noils, or wool waste (carded, spun, woven, or knitted), and shall be deemed to include cooked or uncooked (including breaded) fish or shell fish when frozen or fresh (but not including fish and shell fish which have been treated for preserving, such as canned, smoked, pickled, spiced, corned or kippered products);

"(b) Unless otherwise specifically indicated therein, the holder of any certificate or permit heretofore issued by the Interstate Commerce Commission, or hereafter so issued pursuant to an application filed on or before the date on which this section takes effect, authorizing the holder thereof to engage as a common or contract carrier by motor vehicle in the transportation in interstate or foreign commerce of property made subject to the provisions of part II of the Interstate Commerce Act by paragraph (a) of this section, over any route or routes or within any territory, may without making application under that Act engage, to the same extent and subject to the same terms, conditions and limitations, as a common or contract carrier by motor vehicle, as the case may be, in the transportation of such property, over such route or routes or within such territory, in interstate or foreign commerce.

"(c) Subject to the provisions of section 210 of the Interstate Commerce Act, if any person (or its predecessor in interest) was in bona fide operation on May 1, 1958, over any route or routes or within any territory, in the transportation of property for compensation by motor vehicle made subject to the provisions of part II of that Act by para-

graph (a) of this section, in interstate or foreign commerce, and has so operated since that time (or if engaged in furnishing seasonal service only, was in bona fide operation on May 1, 1958, during the season ordinarily covered by its operations and has so operated since that time), except in either instance as to interruptions of service over which such applicant or its predecessor in interest had no control, the Interstate Commerce Commission shall without further proceedings issue a certificate or permit, as the type of operation may warrant, authorizing such operations as a common or contract carrier by motor vehicle if application is made to the said Commission as provided in part II of the Interstate Commerce Act and within one hundred and twenty days after the date on which this section takes effect. Pending the determination of any such application, the continuance of such operation without a certificate or permit shall be lawful. Any carrier which on the date this section takes effect is engaged in an operation of the character specified in the foregoing provisions of this paragraph, but was not engaged in such operation on May 1, 1958, may under such regulations as the Interstate Commerce Commission shall prescribe, if application for a certificate or permit is made to the said Commission within one hundred and twenty days after the date on which this section takes effect, continue such operation without a certificate or permit pending the determination of such application in accordance with the provisions of part II of the Interstate Commerce Act.

"AMENDMENT TO SECTION 203 (C) OF INTERSTATE COMMERCE ACT

"SEC. 8. Subsection (c) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the period at the end thereof and inserting in lieu of such period a comma and the following: 'nor shall any person engaged in any other business enterprise transport property by motor vehicle in interstate or foreign commerce for business purposes unless such transportation is within the scope, and in furtherance, of a primary business enterprise (other than transportation) of such person.'"

And the House agree to the same.

OREN HARRIS,
KENNETH A. ROBERTS,
HARLEY O. STAGGERS,
WALTER ROGERS,
SAMUEL N. FRIEDEL,
JOHN J. FLYNT,
TORBERT H. MACDONALD,
CHARLES A. WOLVERTON,
JOSEPH P. O'HARA,
ROBERT HALE,
WILLIAM L. SPRINGER,
STEVEN B. DEROUNIAN,
J. ARTHUR YOUNGER,

Managers on the Part of the House.

WARREN G. MAGNUSON,
GEORGE A. SMATHERS,
FRANK J. LAUSCHE,
JOHN W. BRICKER,
ANDREW F. SCHOEPPPEL,
WILLIAM A. PURTELL,

Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3778) to amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

The bill as agreed to in conference (except for section 4) follows closely the substitute

amendment which the House made to the Senate bill.

Except for clerical and minor drafting changes the differences between the House amendment and the bill as agreed to in conference are as follows:

LOAN GUARANTIES

The bill agreed to in conference, as did the Senate bill and the House amendment, adds new provisions to the Interstate Commerce Act to authorize the Interstate Commerce Commission to guarantee certain loans of common carriers by railroad subject to that act.

Coverage: The Senate bill provided for the guaranty of loans for capital expenditures, operating expenses (which includes maintenance), working capital, and interest on existing obligations. The House amendment provided for the guaranty of loans for capital expenditures and for not more than 50 percent of any loan for maintenance, such 50 percent limitation being based on maintenance charges in the preceding calendar year. The bill as agreed to in conference provides for the guaranty of loans for capital expenditures and maintenance (with the 50 percent House limitation being eliminated).

Maximum aggregate principal amount: The Senate bill provided that the aggregate of all loans guaranteed, including unpaid interest, should not exceed \$700,000,000, of which no more than \$150,000,000 could be loans for operating expenses and interest on existing obligations. The House amendment contained no maximum aggregate limitation with respect to loan guaranties. The bill as agreed to in conference provides that in no event shall the aggregate principal amount of all loans guaranteed by the Commission exceed \$500,000,000.

Limitations: The Senate bill and the House amendment each provided that the Commission could not make a guaranty unless certain conditions or limitations were satisfied.

As was pointed out above, the conference substitute omits the 50-percent limitation on maintenance loans which was in the House amendment. Therefore, there is also omitted from the conference substitute a provision of the House amendment (added by a floor amendment) which would have barred the making of a guaranty in the case of a loan for maintenance expenditures "if the Commission fails to determine that on the date of the application the carrier has substantial deferred expenditures for maintenance of property, that such deferral has been required by the carrier's financial condition and that the carrier and lender have made arrangements which provided reasonable assurance that the proceeds of the loan will be used only to raise the annual level of maintenance expenditures by the carrier over the average annual level of such expenditures by the carrier during the period when such maintenance expenditures were being deferred."

A limitation taken from the Senate bill has been included, providing that no guaranty shall be made unless the Commission finds that the prospective earning power of the applicant carrier, together with the character and value of the security pledged, if any, furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefor and reasonable protection to the United States.

In other respects, the provisions limiting the authority of the Commission to make guaranties are substantially the same as the provisions contained in the House amendment.

A sentence has been included to require that with respect to each loan guaranteed by the Commission the findings which the Commission must make, under the provisions above referred to imposing restric-

tions on the making of guaranties, shall be made a matter of public record.

Termination of authority: The Senate bill provided that the authority granted to guaranty loans should terminate December 31, 1960, except with respect to applications pending on that date, and that the provisions of the legislation should remain in effect after that date with respect to guaranties made by the Commission. The House amendment was the same as the Senate provision except that (1) the termination date was March 31, 1961, and (2) guaranties would not have been permitted in case of applications pending (but not approved) as of the termination date. The bill as agreed to in conference follows the Senate provision except that the House termination date of March 31, 1961, has been adopted.

SECTION 4 OF THE BILL AGREED TO IN CONFERENCE

This section embodies (with certain modifications) a portion of the provisions of section 3 of the Senate bill. That section of the Senate bill proposed to amend section 13 of the Interstate Commerce Act by rewriting paragraph (4) thereof and by adding thereto a new paragraph (5).

The subject matter involved is the authority of the Interstate Commerce Commission to remove discriminations against interstate commerce, primarily by making adjustments in intrastate rates of carriers by railroad subject to the Commission's jurisdiction.

This authority has been exercised by the Commission for many years under the existing law. However, principally because of certain recent Supreme Court decisions, referred to below, it is necessary to modify the existing law to strengthen it and make it more effective.

In the *Shreveport* case, *Houston, E. & W. T. R. Co. v. United States* (234 U. S. 342, decided June 8, 1914), the Supreme Court held that under the antidiscrimination provisions of the Interstate Commerce Act it was unlawful for railroads to maintain intrastate rates which caused discrimination against interstate commerce and that the Interstate Commerce Commission was authorized to require the removal of such discrimination even though the intrastate rates had been required by State authority. In 1920, by amendments to section 13 of the Interstate Commerce Act, Congress made this power explicit and prescribed procedure for its exercise. These provisions appear in section 13 (3) and (4) of that act.

Paragraph (4) of section 13 now empowers the Commission to require the removal of any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce, on the one hand, and interstate or foreign commerce, on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce caused by any intrastate rate, fare, charge, classification, regulation, or practice.

Section 4 of the bill agreed to in conference would amend paragraph (4) of section 13 in 3 particulars.

The first amendment is the insertion of the words "or undue burden on" in the present language describing the protection extended to interstate commerce. The addition of these words would serve to remove any doubt as to the Commission's power in instances where, upon appropriate records, it finds, as it has done in some section 13 proceedings, that the burden cast upon interstate commerce by intrastate rates or charges is undue and therefore unjustly discriminatory. Such findings have been questioned in the courts. This proposed change would thus afford the Commission additional statutory support needed in the administration of section 13.

The second amendment is the insertion of the following words: "(which the Commission may find without a separation of interstate and intrastate property, revenues, and expenses and without considering in totality the operations or results thereof of any carrier, or group or groups of carriers wholly within any State)."

With this amendment, in order to exercise its jurisdiction over intrastate rates, the Commission still must find that such rates cause undue, unreasonable, or unjust discrimination against, or undue burden on interstate commerce. The amendment deals only with the nature of the evidence to support such a finding. By two recent decisions of the Supreme Court (*Chicago, Milwaukee, St. Paul and Pacific Railroad Co. v. State of Illinois* ((January 13, 1958), 356 U. S. 906) and *Public Service Commission of Utah v. United States* ((May 19, 1958), 356 U. S. 421), the Commission is required to consider the entire state operation, freight and passenger, in determining whether or not the intrastate freight rates were causing an undue revenue discrimination against interstate commerce. If the holdings in these cases mean that the required finding of "undue, unreasonable, or unjust discrimination against, or undue burden on, interstate or foreign commerce" can be made only in the light of the overall statewide totality of a carrier's operating results derived from its entire body of rates applicable within the State, it would preclude the Commission from making such a finding on a showing of only the effect of the particular rate or rates in question. The Commission could not, under such an interpretation, continue to function effectively in removing unjust discrimination against interstate commerce caused by intrastate rates and charges.

Rather than the amendment causing a change, it is the possible interpretation of these recent court decisions that would create a change in the present regulatory scheme. As stated in the dissenting opinion (of four justices) in the *Utah* case, a consequence of the decisions "would be a radical, and in all likelihood unworkable, change in the way the Commission has administered the provisions of section 13 (4) for over 35 years." It is essential, therefore, that this provision be enacted into law.

The third amendment is the addition of a proviso at the end of the first sentence of paragraph (4) directing the Commission, in this type of discrimination case, to exercise forthwith its authority by instituting an investigation and giving special expedition to the hearing and decision therein.

The purpose of this proviso is to avoid the delays which now ensue by reason of the practice generally on the part of the carriers of awaiting final action by the State authorities prior to filing a petition with this Commission for an investigation under section 13 (3). This has been the general practice, except where action on the part of the State authorities has been unduly delayed. The Commission also as a matter of comity has felt that it was undesirable to intervene while a matter is before a State commission and it has discouraged the filing with it of petitions in those circumstances. These practices have resulted in delays in removing discriminations against and burdens upon interstate commerce. The effect of this amendment would be to require the Commission to proceed promptly to a determination of such matters, regardless of the pendency of any proceedings before a State commission.

The above three amendments to paragraph (4) of section 13 do not vest the Commission with jurisdiction that it does not have today but deal with procedures in the exercise of that jurisdiction better to strengthen the protection of interstate commerce as designed in this provision of the act.

Section 3 of the Senate amendment also proposed to amend section 13 of the Interstate Commerce Act by adding a new paragraph (5) as follows:

"(5) In any proceeding before the Commission involving an investigation of or authorization or permission for a general adjustment in rates, fares, or charges, or any of them, or carriers subject to this part for the transportation of property or passengers, or both, in interstate commerce throughout, or substantially throughout, the United States, or one or more of the three major rate classification territories thereof (Official, Western or Southern), any such carrier or carriers parties thereto may by petition seek authority or permission of the Commission for a comparable adjustment of rates, fares, or charges for the transportation of like property or passengers wholly within an individual State or individual States. If, in such proceeding, the Commission finds (as it is hereby authorized to do) that authorizing or permitting an adjustment in interstate rates, fares, or charges without authorizing or permitting a comparable adjustment in intrastate rates, fares, or charges would cause, or create a circumstance of, advantage, preference, prejudice, discrimination or burden declared in paragraph (4) of this section to be unlawful, the Commission shall, incident to any adjustment it may authorize or permit in such interstate rates, fares, or charges, authorize or permit a comparable adjustment in such intrastate rates, fares, or charges. Pursuant to such authorization the said carrier or carriers, upon making any adjustment so authorized or permitted by the Commission in such interstate rates, fares, or charges may without further authority make a comparable adjustment in such intrastate rates, fares, or charges and adjustments so made in intrastate rates, fares, or charges shall be observed while continued in effect by the said carrier or carriers, the law of any State or the decision or order of any State authority to the contrary notwithstanding."

The bill as agreed to in conference does not contain the above-quoted paragraph (5) from the Senate bill, or any provision based thereon.

SECTION 5 OF THE BILL AGREED TO IN CONFERENCE

This section adds to the Interstate Commerce Act a new section 13a which would provide a method and procedures to make it possible for carriers by railroad subject to the Interstate Commerce Act to discontinue or change, in whole or in part, the operation or service of trains or ferries operated by such carriers, notwithstanding otherwise applicable State laws. At present the Interstate Commerce Commission has no jurisdiction over discontinuance of service unless a whole "line of railroad" is involved.

Both the Senate bill and the House amendment contained provisions on this subject, and the members of the committee of conference feel that the provisions of section 5 of the bill as agreed to in conference represent a reasonable and workable compromise of the controversial differences between the two Houses insofar as these provisions are concerned.

The proposed new section 13a, as contained in the bill agreed to in conference contains two paragraphs, designated (1) and (2).

Paragraph (1) deals with the discontinuance or change of the operation or service of a train or ferry "operating from a point in one State to a point in any other State or in the District of Columbia, or from a point in the District of Columbia to a point in any State." A procedure is set up whereby the carrier or carriers concerned may discontinue or change the op-

eration or service (notwithstanding State law) upon giving 30 days' notice to the Interstate Commerce Commission (as well as certain other notice) of intention to do so. The Commission is given authority, during such 30-day period, upon complaint or on its own initiative, to commence an investigation of the proposed discontinuance or change. The Commission may require that the train or ferry be continued in operation or service pending a decision by it, but not for more than four months beyond the date when the discontinuance or change would otherwise take effect. Upon completion of the investigation the Commission may require continuance or restoration of the operation or service in question for a period of not to exceed one year from the date of its order, but only if it finds that the operation or service is required by public convenience and necessity and will not unduly burden interstate or foreign commerce. In case the Commission has made an order requiring the continuance or restoration of operation or service, the jurisdiction of the State with respect thereto shall no longer be superseded unless the procedure provided for in this provision shall again be invoked by the carrier or carriers. The provisions of this paragraph (1) follow the provisions of the House amendment rather closely so far as procedure is concerned, but in the House amendment the coverage of the provision was expressed in terms of operations or services other than those "performed by any carrier by railroad on a line of railroad located wholly within a single State."

Paragraph (2) of the proposed new section 13a, as contained in the bill agreed to in conference, deals with the discontinuance or change, in whole or in part, by a carrier or carriers of the same class referred to in paragraph (1), of the operation or service of any train or ferry operated "wholly within the boundaries of a single State." The paragraph would operate where such a carrier or carriers desires to discontinue or change any such operation or service, and where (1) the discontinuance or change is prohibited by the constitution or statutes of a State, (2) where the State authority having jurisdiction has denied an application duly filed for authority to discontinue or change the operation or service, or (3) where the State authority having jurisdiction shall not have acted finally on such application within 120 days from the presentation thereof. Under such circumstances this paragraph would permit the carrier or carriers to file with the Interstate Commerce Commission a petition for authority to effect the discontinuance or change in question. The Commission is given the power to grant the authority applied for, but only if it has had a full hearing on the matter and made a finding that "(a) the present or future public convenience and necessity permit of such discontinuance or change, in whole or in part, of the operation or service of such train or ferry, and (b) the continued operation or service of such train or ferry without discontinuance or change, in whole or in part, will constitute an unjust and undue burden upon the interstate operations of such carrier or carriers or upon interstate commerce." It is provided that in the case of any such proceeding, notification shall be given to the Governor of the State concerned at least 30 days in advance of the commencement of the hearing by the Commission, and the Commission is required to hold such hearing in the State in which the train or ferry is operated. It is provided that the Commission may avail itself of the cooperation of the services and facilities of the State authorities in the performance of its functions under this paragraph.

There has been omitted from the bill agreed to in conference a provision of the House amendment which would have directed the Interstate Commerce Commission to make a study and report on the passenger train deficit problem and to report thereon to Congress. On its own initiative the Commission has heretofore instituted a broad investigation which would include this subject, and if this provision of the House amendment were retained it might call for an unnecessary duplication of effort on the part of the Commission.

AGRICULTURAL COMMODITIES EXEMPTION

Section 7 of the bill agreed to in conference amends section 203 (b) (6) of the Interstate Commerce Act, with respect to the exemption from regulation of motor carrier transportation of certain agricultural commodities. Both the Senate bill and the House amendment contained provisions on this subject.

Under the Senate bill the agricultural commodities exemption was frozen, with a slight modification, in accordance with ruling No. 107, dated March 19, 1958, of the Bureau of Motor Carriers, Interstate Commerce Commission. The same was true of the House amendment, but the modifications were somewhat different. The modification made by the House amendment included the return to economic regulation of the transportation by motor vehicle of frozen fruits, frozen berries, frozen vegetables, coffee, tea, cocoa, bananas, hemp, wool imported from any foreign country, wool tops and noils and wool waste which has been carded but not spun, woven, or knitted. This modification also included the exemption from economic regulation of the transportation by motor vehicle of fish or shell fish, and fresh or frozen products thereof containing seafood as the basic ingredient, whether breaded, cooked, or otherwise prepared, but not including fish and shell fish which have been treated for preserving, such as canned, smoked, salted, pickled, spiced, corned, or kippered products.

Under the conference agreement the agricultural commodities exemption is frozen in accordance with ruling No. 107, referred to above, with the following modification, which is a compromise between the Senate and House provisions: Returned to economic regulation is the transportation by motor vehicle of frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, hemp, wool imported from any foreign country, wool tops and noils and wool waste which has been carded, spun, woven, or knitted. Exempted from economic regulation is the transportation of cooked or uncooked (including breaded) fish or shell fish when frozen or fresh, but not including fish and shell fish which have been treated for preserving, such as canned, smoked, pickled, spiced, corned, or kippered products.

Under the House amendment any person engaged on June 1, 1958, in trucking the aforementioned commodities which are returned to economic regulation by this amendment would be entitled, upon application, to a certificate or permit allowing him, under regulations, to continue the transportation of the same commodities within the same areas or between the same points. The Senate bill used the date of January 1, 1958. The conference agreement uses the date May 1, 1958.

PSEUDO-PRIVATE CARRIAGE OF PROPERTY BY MOTOR VEHICLE

Section 8 of the bill agreed to in conference amends section 203 (c) of the Interstate Commerce Act, which prohibits certain operations in the transportation of property by motor vehicle with first obtaining appropriate operating authority.

The Senate bill and the House amendment each proposed to amend this provision,

and the amendments proposed were quite similar but not identical.

The House amendment provided that no person should, in connection with any business enterprise other than transportation, transport property by motor vehicle in interstate or foreign commerce unless such transportation was incidental to, and in furtherance of, a primary business enterprise, other than transportation, of such person. The conference agreement provides that no person, engaged in any business enterprise other than transportation, shall transport property by motor vehicle in interstate or foreign commerce for business purposes unless such transportation is within the scope and in furtherance of a primary business enterprise, other than transportation, of such person.

OREN HARRIS,
KENNETH A. ROBERTS,
HARLEY O. STAGGERS,
WALTER ROGERS,
SAMUEL N. FRIEDEL,
JOHN J. FLYNT,
TORBERT H. MACDONALD,
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JOSEPH P. O'HARA,
ROBERT HALE,
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STEVEN B. DEROUNIAN,
J. ARTHUR YOUNGER,

Managers on the Part of the House.

PERSONAL ANNOUNCEMENT

(Mr. FULTON asked and was given permission to address the House for 1 minute.)

Mr. FULTON. Mr. Speaker, while I was absent on Monday, June 30, if I had been present I would have voted "yea" on rollcall 112, which went through 327 to 1, in passing the extension of the Federal milk program for children.

PAYMENTS TO INDIANS OF CROW CREEK SIOUX RESERVATION, S. DAK.

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up the resolution (H. Res. 641) providing for the consideration of H. R. 12670, a bill to provide for additional payments to the Indians of the Crow Creek Sioux Reservation, S. Dak., whose lands have been acquired for the Fort Randall Dam and Reservoir project, and for other purposes, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 12670) to provide for additional payments to the Indians of the Crow Creek Sioux Reservation, S. Dak., whose lands have been acquired for the Fort Randall Dam and Reservoir project, and for other purposes. After general debate, which shall be confined to the bill and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority members of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final

passage without intervening motion except one motion to recommit.

Mr. BOLLING. Mr. Speaker, House Resolution 641 makes in order the consideration of H. R. 12670. The resolution provides for an open rule and 1 hour of general debate on the bill.

This bill, H. R. 12670, is similar to H. R. 12663. It authorizes the payment of all claims, rights, and demands arising from the construction of the same dam and reservoir—Fort Randall—to another Indian tribe, the Crow Creek Sioux Tribe, which shares the Missouri River bed with the Lower Brule Sioux Tribe. The amount authorized is \$1,619,907, which is the difference between the amount agreed upon to settle the claims, \$2,019,209, and the amount already paid into court for the approximately 9,500 acres taken in condemnation proceedings. This payment will be deposited in the Treasury to the credit of the tribe. \$126,000, which represents the increased land values between the date of taking and the present, is to be allocated to the former owners on a pro-rated basis.

I urge the adoption of House Resolution 641.

Mr. Speaker, I yield 30 minutes to the gentleman from Illinois [Mr. ALLEN].

Mr. ALLEN of Illinois. Mr. Speaker, I have no requests for time.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

OAHE DAM ON THE MISSOURI RIVER AND REHABILITATION OF STANDING ROCK SIOUX RESERVATION IN SOUTH DAKOTA

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up the resolution (H. Res. 639) providing for the consideration of H. R. 12662, a bill to provide for the acquisition of lands by the United States required for the reservoir created by the construction of Oahe Dam on the Missouri River and for rehabilitation of Indians of the Standing Rock Reservation in South Dakota, and for other purposes, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 12662) to provide for the acquisition of lands by the United States required for the reservoir created by the construction of Oahe Dam on the Missouri River and for rehabilitation of the Indians of the Standing Rock Sioux Reservation in South Dakota, and for other purposes. After general debate, which shall be confined to the bill and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amend-

July 30, 1958

11. APPROPRIATIONS. Received the conference report on H. R. 12948, the D. C. appropriation bill for 1959 (H. Rept. 2325). pp. 14321-22
12. SMALL BUSINESS. Conferees were appointed on S. 3651, to make equity capital and long-term credit more readily available to small business. Senate conferees have not been appointed. p. 14326
13. AREA REDEVELOPMENT. Rep. Siler urged enactment of S. 3683, to provide Federal aid to economically depressed areas. pp. 14326-27

SENATE

14. APPROPRIATIONS. Agreed to the conference report on H. R. 11574, the independent offices appropriation bill for 1959, agreed to certain House amendments, and voted, 44 to 39, to recede from an item in disagreement to include \$589 million for the Civil Service Retirement and Disability Fund. Sen. Sparkman spoke against the elimination of \$100,000 for HHFA farm housing research, and Sens. Saltonstall and Magnuson stated they would consider the matter next Jan. in the supplemental or regular independent offices appropriation bill (pp. 14246-7). This bill will now be sent to the President. pp. 14243-56
Passed, 71 to 0, with amendment H. R. 12738, the Defense Department Appropriation bill for 1959, and conferees were appointed (pp. 14258-9, 14261-87). Agreed to an amendment, applying generally to Government departments and agencies, to require reports to Congress in writing, following the close of each calendar quarter, of the amount of each budgetary reserve in effect at the end of such quarter and the purpose for which each such reserve was established. This was a modification, proposed by Sen. Hayden, of a committee amendment that had been reported on this subject (pp. 14264-5).
Passed without amendment H. J. Res. 672, to make temporary appropriations until Aug. 31, 1958, to various agencies until their regular 1959 appropriation bills are enacted. This measure will now be sent to the President. p. 14191

15. TRANSPORTATION. Both Houses agreed to the conference report on S. 3778, to strengthen the national transportation system. This bill will now be sent to the President. pp. 14205-8, 14326

16. AGRICULTURE AND FORESTRY COMMITTEE ordered reported the following bills:

Without amendment:

- H. R. 6542, to authorize the conveyance of certain forest lands to Dayton, Wyo.;
- H. R. 11800, to authorize the Secretary to sell a tract of land and buildings thereon under the jurisdiction of ARS to Clifton, N. J.;
- S. 3333, to improve the insured loan program of FHA;
- H. R. 12224, to prohibit the creation of an acreage history on peanuts after 1957 by those growing peanuts without an acreage allotment;
- H. R. 12840, to provide a single acreage allotment for Va. sun-cured and Va. fire-cured tobaccos if farmers vote approval in a referendum;
- S. 4151, to establish uniform provisions for the transfer of acreage allotments when the landowner is displaced by an agency having the right of eminent domain;
- S. 3858, to authorize CCC to purchase flour and cornmeal for donation instead of having such products processed from its own stocks; and
- H. Con. Res. 295, endorsing plans of a non-government group to establish a Hall of Fame for Agriculture.

With amendment:

- S. 2142, to amend the Agricultural Marketing Agreement Act so as to extend restrictions on certain citrus fruits;
- S. Res. 344, to authorize the committee to study marketing practices relating to loose and tied tobacco; and
- H. R. 12126, to extend to wild animals the same prohibition against entry into the U. S. as domestic animals from any country where rinderpest or foot-and-mouth disease exists;

An original bill to extend the Mexican farm labor program for one year.
p. D758

- 17. WATERSHED PROJECTS. The Agriculture and Forestry Committee approved the following watershed projects: Adobe Creek, Buena Vista Creek, and Central Sonoma, Calif.; Upper Nanticoke River, Del.; Donaldson Creek, Ky.; Mud Creek, Nebr.; Peavine Mountain, Nev.; Indian Creek, Tenn. and Miss.; and Cook Creek, Wis.
pp. D758-9
- 18. FORESTRY. Conferees were appointed on S. 3051, to provide for either private or Federal acquisition of that part of the Klamath Indian forest lands which must be sold. House conferees have not been appointed. pp. 14257-8
- 19. RESEARCH. The Government Operations Committee reported with amendments S. 4039, to authorize the head of any Government agency now making contracts for research to grant funds for the support of such research (S. Rept. 2044).
p. 14186
- 20. PERSONNEL. The Post Office and Civil Service Committee reported with amendment H. R. 7710, to provide for the lump-sum payment of all accumulated and accrued annual leave of deceased employees (S. Rept. 2055). p. 14186
- 21. FISHERIES; EXTENSION. The Interstate and Foreign Commerce Committee reported with amendments S. 2973, to establish a fishery extension service in the Fish and Wildlife Service to carry out cooperative fishery extension work with the States (S. Rept. 2063). p. 14186
- 22. MINERALS. The Interior and Insular Affairs Committee reported with amendment S. 4146, to provide for incentive payments to minerals producers (S. Rept. 2057). p. 14186
- 23. FARM INCOME. Sen. Hruska discussed the July release of USDA "Farm Income Situation," showing the increase in farm income, and inserted 14 statements based on USDA statistics showing the upward trend in farm income and living standards. pp. 14199-200
- 24. ELECTRIFICATION. Sen. Neuberger criticized the alleged bias of Douglas McKay as Chairman of the International Joint Commission studying the position of the Federal government as to joint actions with Canada in developing the Columbia River Basin, asserted that his opposition to Federal power developments made him unsuitable for formulating the Federal position in this area, and inserted an editorial on the matter. pp. 14204-5
- 25. HUMANE SLAUGHTER. Sen. Allott stated that the humane slaughter bill, because of the discretion granted the Secretary for formulating regulations, was "one of the best, prime example of what legislation should not be."
pp. 14190-1

public utility districts, the builders, and private and publicly owned utilities, the buyers of electricity. The public utility districts are enabled to sell revenue bonds because they have contracted with utilities, including those in Oregon, to buy most of the power.

But projects which combine big storage for flood control and downstream power benefits with large blocks of at-site power are not attractive to public utility districts, or to private utilities, for that matter. Mr. McKay, who is chairman of the United States section of the International Joint Commission, has not yet broken the deadlock with Canada to assure flood control storage on the Columbia headwaters.

The logical builder of the needed flood control-power projects in the upper basin—Idaho and Montana—is the Federal Government directly, or a Federal agency such as the proposed Regional Power Corporation. Such a corporation, which would market its revenue bonds at a lower interest rate than the public utility districts, would be in an advantageous position. It would pay the power costs and Congress would appropriate funds, as is traditional, for flood control and navigation costs.

An added inducement for Oregon to support a Regional Power Corporation, which Mr. McKay opposes, is that in such legislation lies the opportunity to replace the power preference clause with a fair and equitable distribution clause, or something similar. The long-range need is to assure Oregon consumers a fair share of future Federal power production, not now assured by the preference clause.

Mr. McKay perhaps was misunderstood or had a lapse of memory when he was quoted as saying there haven't been any Federal power dams started in the Northwest under the Eisenhower administration. Democrats in Congress have inserted appropriations in the Eisenhower budgets for several new starts, including John Day, Ice Harbor, Hills Creek, and Cougar, and planning has been authorized for others.

But still there has been neglect of the projects which are most needed—the big storage dams in the upper basin which would reduce the danger of disastrous floods and provide more water for winter power generation when it is needed most. There has also been neglect of the regional necessity for a more equitable distribution of Federal power; the regional system has become a State of Washington system. Mr. McKay would have Oregon depend upon the generosity or fiscal needs of Washington public utility districts, which have prior claim on both the Federal dams and their own.

CONSTRUCTION AT MILITARY INSTALLATIONS

The PRESIDING OFFICER (Mr. MANSFIELD in the chair). Is there further morning business? If not, morning business is closed, and the Chair lays before the Senate the unfinished business.

The Senate resumed the consideration of the bill (H. R. 13015) to authorize certain construction at military installations, and for other purposes.

Mr. SPARKMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PASTORE in the chair). Without objection, it is so ordered.

TRANSPORTATION ACT OF 1958— CONFERENCE REPORT

Mr. MAGNUSON. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3778) to amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER. The report will be read for the information of the Senate.

The legislative clerk read the report.

(For conference report, see House proceedings of July 24, 1958, pp. 13606-13608, CONGRESSIONAL RECORD.)

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. MAGNUSON. Mr. President, I wish to take a half minute to point out for the RECORD the long and arduous work which was involved in consideration of the Transportation Act of 1958. This is probably one of the major bills to be passed by the present Congress. Certainly, with respect to the transportation field, it is one of the most important bills during the many, many years Congress has taken cognizance of such matters.

The Subcommittee on Surface Transportation of the Committee on Interstate and Foreign Commerce, as has been pointed out before, when the bill was under consideration, held long hearings and heard many, many scores of witnesses on every phase of our national transportation problem.

The conference itself was almost a Herculean task, in the working out of language which would permit the Senate to get together with the House. The House conferees were very cooperative. I think the conference has produced about as good a bill as possible at this time, considering the area of controversy involved in this field.

As chairman of the Committee on Interstate and Foreign Commerce, I again commend the distinguished Senator from Florida [Mr. SMATHERS] and the members of the subcommittee, many of whom are on the floor, for what I think is one of the best jobs in the transportation field done in a long, long time.

Mr. SMATHERS rose.

Mr. MAGNUSON. I yield to the Senator from Florida.

Mr. SMATHERS. Mr. President, I am grateful to the chairman of the committee for the kind words he has spoken. We have stated previously that this was no one-man effort and represented a great deal of work on the part of Members on both sides of the aisle who are members of the subcommittee.

I am particularly pleased to tell my colleagues in the Senate that the bill as agreed to by the conferees is a considerably improved version over that passed by the Senate and that passed by the House. In this respect, it represents the strongest features of both bills. In fact, it has perfected the measures passed previously by both Houses.

It is truly a constructive piece of legislation. Not only does it charter the way to further strengthen and improve our national transportation system—so vital to our national defense and economic well-being—but it also provides a means to promote a healthy overall economic atmosphere. Without doubt, it is legislation in the public interest. At this point I should like to ask unanimous consent to have printed in the RECORD a detailed explanation of the manner in which the House conferees and the Senate conferees got together, and the results of their deliberations.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

EXPLANATION OF S. 3778, THE TRANSPORTATION ACT OF 1958, AS APPROVED BY THE CONFEREES

The bill as finally approved by the conferees covers the following points:

1. Guaranteed loans (a new pt. V, Interstate Commerce Act): Under this part the Interstate Commerce Commission would be authorized to guarantee loans made to railroads from private sources to the amount of \$500 million. The loans must be repaid in 15 years and may be made for the purchase of capital equipment and for maintenance. If a loan is obtained for maintenance purposes, it would be unlawful for a railroad securing a guaranty of the loan to declare dividends on its capital stock during the period the loan is outstanding or while any interest on the loan remains unpaid.

Before a loan could be guaranteed, the Interstate Commerce Commission must: (a) find that without such guaranty the carrier would be unable to secure the necessary funds on reasonable terms; (b) be of the judgment that the loan involved is being made at a reasonable rate of interest; and (c) find that the United States is afforded reasonable protection in its guaranty of the loan.

ICC authority to guarantee loans would expire March 31, 1961 (except for applications pending).

These provisions of the bill are a compromise. The Senate bill would have authorized guaranty of loans for capital expenditures, for all operating expenses (which include maintenance), for working capital, and for interest on existing obligations. The House amendment provided for guaranty of loans for capital expenditures and for loans of not more than 50 percent of the maintenance charges of the carrier for the calendar year preceding the application. As agreed upon in conference, the bill provides for guaranty of loans for capital expenditures and maintenance, with the House limitation of 50 percent eliminated.

As to aggregate principal amount of loans to be guaranteed: the Senate bill provided for \$700 million, of which not more than \$150 million could be loans for operating expenses and interest on existing obligations. The House amendment contained no limitation.

The conferees, after careful consideration, agreed upon \$500 million as the aggregate principal amount of loans to be guaranteed by ICC.

2. Amending ICC authority over intrastate rates (sec. 4): This section of the bill deals with the authority of the ICC to remove discriminations against interstate commerce primarily by making adjustments in intrastate rates of railroads subject to ICC jurisdiction.

Paragraph (4) of section 13 of the Interstate Commerce Act now empowers ICC to require removal of "any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce, on the one hand, and interstate or foreign commerce, on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce" caused by any intrastate rate, fare, charge, classification, regulation, or practice.

Section 4 of the bill as agreed to in conference would amend section 13 (4) in three respects:

1. The first amendment is the insertion of the words "or undue burden on" in the present language describing the protection extended to interstate commerce. The addition of these words would serve to remove any doubt as to the Commission's power in instances where, upon appropriate records, it finds, as it has done in some section 13 proceedings, that the burden cast upon interstate commerce by intrastate rates or charges is undue and therefore unjustly discriminatory. Such findings have been questioned in the courts. This proposed change would thus afford the Commission additional statutory support needed in the administration of section 13.

2. The second amendment deals with the nature of the evidence to support a finding of undue discrimination against or undue burden on interstate commerce.

By two recent decisions of the Supreme Court (*Chicago, Milwaukee, St. Paul and Pacific Railroad Co. v. State of Illinois* (January 13, 1958) (356 U. S. 906), and *Public Service Commission of Utah v. United States* (May 19, 1958) (356 U. S. 421)), the Commission is required to consider the entire State operation, freight and passenger, in determining whether or not intrastate commuter fares, or intrastate freight rates, were causing an undue revenue discrimination against interstate commerce.

Apparently the holdings in these cases mean that the required finding of undue discrimination against, or undue burden on interstate or foreign commerce can be made only in the light of the overall statewide totality of a carriers operating results arising from all the rates applicable within a State.

This would preclude the ICC from making such a finding on a showing of only the effect of the particular intrastate rate or rates in question. The ICC could not under such a rule continue to function effectively in removing unjust discrimination against interstate commerce caused by intrastate rates. In addition, the burden on the carriers of presenting in evidence a separation of interstate and intrastate property, revenue, and expenses would impose an intolerable accounting problem and an almost impossible burden of proof.

As stated in the dissenting opinion of four justices in the Utah case, a consequence of the decisions "would be a radical, and in all likelihood unworkable, change in the way the Commission has administered the provisions of section 13 (4) for over 35 years."

It is essential that the standard of proof acceptable for 35 years be maintained. That is the purpose of this amendment.

3. The third amendment proposes to overcome the policy of comity under which the ICC has generally felt it undesirable to intervene while a matter involving intrastate rates is before a State regulatory commission. This policy has resulted in delays in removing discriminations against and burdens upon interstate commerce. The effect of this amendment would be to require the ICC

to proceed promptly to a determination of such matters.

The above three amendments to paragraph (4) of section 13 do not vest the Commission with jurisdiction that it does not have today, but deal with procedures in the exercise of that jurisdiction better to strengthen the protection of interstate commerce as designed in this provision of the act.

These three amendments to section 13 (4) of the Interstate Commerce Act agreed to by the conferees were contained in section 3 of the Senate bill. The House bill had no comparable section.

It should be called to the attention of the Senate that section 3 of the Senate bill also proposed to add a new paragraph (5) to section 13 of the Interstate Commerce Act that would authorize the ICC in a case involving a general adjustment of interstate rates to authorize at the petition of the railroads a comparable adjustment in intrastate rates—if the ICC finds that not to do so would impose an undue burden on interstate commerce.

The bill agreed to in conference does not contain this new paragraph (5) to section 13 from the Senate bill, or any provision based thereon.

3. Discontinuance of train service (sec. 5): Section 5 of the bill as agreed upon by the conferees would add to the Interstate Commerce Act a new section 13a providing a method and procedures to make it possible for carriers by railroad subject to the Interstate Commerce Act to discontinue or change, in whole or in part, the operation or service of trains or ferries operated by such carriers, notwithstanding otherwise applicable State laws. At present the Interstate Commerce Commission has no jurisdiction over discontinuance of railroad service unless abandonment of a line of a railroad is involved.

As both the Senate bill and the House amendment contained provisions on this subject, the members of the conference committee feel that the provisions of section 5 of the bill as agreed to in conference represent a reasonable and workable compromise of the controversial differences between the two versions insofar as these provisions are concerned.

The section would grant authority to discontinue service rendered by trains and ferries crossing State lines to the Interstate Commerce Commission. If enacted, this would invest ICC with authority to discontinue trains that impose a burden on interstate commerce. This provision, however, would not deprive the carrier of the right to go to State commissions to ask for discontinuance of trains crossing State lines. Carriers invoking ICC jurisdiction over a train or ferry would be required to give ample notice to the States in which such train or ferry is located.

State regulatory commissions would retain jurisdiction over stations, depots, and other such facilities.

Jurisdiction over trains operating wholly within a single State would remain with State regulatory commissions. If a State commission does not act on a request for discontinuance within a period of 120 days, or hands down a decision adverse to the applicant carrier, the railroad involved would be given right of petition to the ICC. The Commission would be allowed to grant discontinuance after a full hearing and upon finding that the public convenience and necessity permits such action and that the continued operation constitutes an undue burden upon interstate commerce.

Notice to the State of the filing of such a petition with the ICC would be required, as well as provisions for hearings in the State in which such train or ferry is operated.

The Commission now has power to determine and to act in situations where intrastate rates impose a burden upon interstate

commerce. The section would extend this power to the service itself.

4. Competitive ratemaking (sec. 6): The House and Senate versions were identical on the subject of competitive ratemaking except for a single punctuation mark in the House bill, which would have no effect on the meaning of the legislation. The House receded on changing the punctuation mark, thus restoring the original Senate version of the amendment to the rule of ratemaking in the Interstate Commerce Act.

5. Agricultural exemption in the Interstate Commerce Act (sec. 7): Section 7 of the bill agreed to in conference amends section 203 (b) (6) of the Interstate Commerce Act, with respect to the exemption from regulation of motor carrier transportation of certain agricultural commodities. Both the Senate bill and the House amendment contained provisions on this subject.

Under the Senate bill the agricultural-commodities exemption was frozen, with a slight modification, in accordance with ruling No. 107, dated March 19, 1958, of the Bureau of Motor Carriers, Interstate Commerce Commission. The same was true of the House amendment but the modifications were somewhat different.

Under the conference agreement the agricultural-commodities exemption is frozen in accordance with ruling No. 107, referred to above, with the following modification, which is a compromise between the Senate and House provisions:

Returned to economic regulation is the transportation by motor vehicle of frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, hemp, wool imported from any foreign country, wool tops and nolls, and wool waste which has been carded, spun, woven, or knitted.

Exempted from economic regulation is the transportation of cooked or uncooked (including breaded) fish or shellfish when frozen or fresh, but not including fish and shellfish which have been treated for preserving such as canned, smoked, pickled, spiced, corned, or kippered products.

Under the House amendment any person engaged on July 1, 1958, in trucking the aforementioned commodities which are returned to economic regulation by this amendment would be entitled, upon application, to a certificate or permit allowing him, under regulation, to continue the transportation of the same commodities within the same areas or between the same points. The Senate bill used the date January 1, 1958. The conference agreement uses the date May 1, 1958.

6. Prohibition against illegal for-hire transportation (sec. 8): Section 8 of the bill agreed to in conference amends section 203 (c) of the Interstate Commerce Act, which prohibits certain operations in the transportation of property by motor vehicle without first obtaining appropriate operating authority.

The Senate bill and the House amendment each proposed to amend this provision, and the amendments proposed were quite similar but not identical.

The Senate bill provided "nor shall any person in any other commercial enterprise transport property by motor vehicle in interstate or foreign commerce unless such transportation is incidental to, and in furtherance of a primary business enterprise (other than transportation) of such person."

The conference agreement provides "nor shall any person engaged in any other business enterprise transport property by motor vehicle in interstate or foreign commerce for business purposes unless such transportation is within the scope, and in furtherance, of a primary business enterprise (other than transportation) of such person."

This amendment is designed to strengthen the hand of the Interstate Commerce Commission in eliminating illegal buy-and-sell

operations and thereby return traffic to carriers operating legally under certificates and permits issued by the ICC.

Mr. SMATHERS. I should further like to say for the RECORD—and I hope very briefly—as to the guaranteed loan provisions in the bill, we compromised with the House on three aspects. The Senate had provided for a \$700 million program. The conferees lowered the amount to a total to be loaned of not to exceed \$500 million. We continued the length of the loans at 15 years. The Senate gave up its position that the money should be loaned for working capital and for operating expenses. In conference, it was agreed that the money can only be loaned for capital expenditure and for maintenance. In addition to that, we struck out a provision which the House had, limiting the amount of money which could be borrowed for maintenance to 50 percent of the amount which the company had spent in the preceding year for maintenance.

With respect to the intrastate rates, the House did not have any provision in its bill, so the House accepted a part of the Senate version on intrastate rates.

With respect to the discontinuance of service, we have given to the Interstate Commerce Commission for the first time the right to discontinue service when the service crosses a State line. However, we protected the right of the States, so ably explained by the distinguished Senator from Georgia and those others concerned about States' rights, by leaving to the State regulatory agencies the right to regulate and have a final decision with respect to the discontinuance of train service which originated and ended within one particular State, except when it could be established that intrastate service was a burden on interstate commerce.

In addition, the Senate receded on a provision under which we had given the Interstate Commerce Commission jurisdiction also to discontinue service in depots, terminals, and other such facilities in connection with the operation of railroads. We left that matter in the hands of the State regulatory agencies.

Mr. President, with respect to competitive ratemaking, the bills of both the Senate and the House had the same provisions. That was the provision which originated in the Senate, and the House included it in its bill. We did not change that in any respect whatever. Of course, we are very proud of the fact that not only the railroads but also the truckers, the water carriers, and everybody else agreed the rule of ratemaking could be changed without detriment to any one of them but that by putting the new criteria for ratemaking in the bill we are going to eliminate some of the paternalism which has heretofore existed in the minds of the Interstate Commerce Commission. I think we will breathe into our whole system of transportation some new competition, which of course is needed, because the public and the consumer will benefit therefrom.

With respect to the agricultural exemption, I think the able chairman of our committee and the chairman of the conference committee has said that we

strengthened the bill in every respect. We got a stronger provision than what the House had or even what the Senate had by combining the language of the two bills. We have stopped the ever-widening interpretation of the agricultural exemption, which unfortunately the Supreme Court had been furthering in every decision.

We preserved the grandfather rights for those truckers and those rail carriers which might from now on come under regulation, if heretofore they had not been under regulation. We have granted grandfather rights in that respect.

We did not accept the House date on that provision, or the Senate date, but arrived at a compromise date, at the suggestion of the able chairman, which was the date of May 1, 1958. This was the fairest date on which we all could agree.

We tightened up the provisions with respect to private carriers, so that those who claim they are private carriers must in fact be private carriers. Carriers will not be permitted to indulge in common carriage under the facade of being a private carrier, thereby avoiding regulation.

We have met the criteria set up in the Brooks case, which the carriers wanted. We think we have tremendously strengthened the bill in that respect.

I would not want this occasion to pass without extending my congratulations to all the Senate and House conferees. All of them displayed remarkable knowledge and understanding of the problems confronting our national transportation system. They were objective in their considerations and deliberations. Without reservation it was one of the best conferences that I believe any of us had the pleasure of attending. All conferees tackled their job forthrightly with the public interest uppermost in their minds.

This piece of constructive legislation is the result of their efforts. They can be proud, and you can be proud of them for a job well done. All of them carried out the highest traditions of the Congress in the performance of their duties.

I should like to join the able chairman in saying that personally I have never before sat on a conference where everybody involved so seriously endeavored to constructively work out the differences between the two bills. I completely agree with our able and distinguished chairman in the statement that we have a much better bill than we started out with. I have no doubt that it will mean a great strengthening of the national transportation system. In so doing I believe it will strengthen our economy. It is a bill I am sure of which the Congress can well be proud.

Mr. BRICKER. Mr. President, first I wish to commend the chairman of the subcommittee and all its members, including the distinguished Senator from Kansas [Mr. SCHOEPPPEL], the distinguished Senator from Connecticut [Mr. PURTELL], my distinguished colleague from Ohio [Mr. LAUSCHE], and especially the chairman of the subcommittee, the Senator from Florida [Mr. SMATHERS], for the work which was done on the bill in the Senate.

There were some provisions which were objected to, of course, on the part of certain Members of the Senate at the time the bill passed the Senate.

In my judgment the conference was one of the finest in which I have ever participated. Every Member approached his responsibility from the standpoint of, What is the public interest? There were no special pleaders in the conference. We worked very cooperatively to get a proper bill.

The chairman of the House committee was encouraging to all of us in his endeavor to work out a bill which would be acceptable to the public, of advantage to the railroads, and of advantage to the common carriers by truck as well.

There was one provision which was debated on the floor particularly, and which I discussed with the distinguished Senator from New York [Mr. JAVITS]. This provision dealt with the problem of net loss and the abandonment of service. That matter was of peculiar interest to the distinguished Senator from Connecticut [Mr. PURTELL]. Although we differed on the interpretation of the section of the bill covering that subject, nevertheless, I assure the Senator from New York that the bill as it came from the conference puts the question of abandonment of service in practically the same situation, so far as original jurisdiction and appellate jurisdiction are concerned, as were the provisions under section 13 of the old interstate-commerce law.

So there is a primary jurisdiction existing within the States, and an appellate jurisdiction in the Interstate Commerce Commission, as was so aptly said by the chairman of the committee, only in a case of discrimination or an unfair burden. So the objections of the Senator from New York and the Senator from Connecticut were taken care of in the report of the conferees, which is now before the Senate.

Mr. JAVITS. The point I raised, in which the Senator from Connecticut was so deeply concerned, was the question of discontinuance if a net loss was shown, that being, in effect, the sole ground. As I understand, the conference report eliminates the net loss test, and the new test, which is now the test provided by the bill, as to the discontinuance of any commuter service—because that was what troubled us particularly—is that it would constitute an undue burden upon the operations of such carrier or carriers, or upon interstate commerce. As I construe that provision, the commission would have to look at the overall situation of the entire railroad in order to determine the inequity of requiring it to continue a particular commuter branch.

Mr. BRICKER. The question involves the relation between the commuter income and income from the other services which the railroad renders.

I do not, of course, agree with the distinguished Senator from New York that there was only a single criterion in the bill originally. Nevertheless, that provision is now out of the bill, and there is no problem in that connection.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. JAVITS. Mr. President, I shall certainly not oppose the report. On the contrary, I am very much in favor of it. I greatly appreciate the fact that the problem of grave interest to commuters around metropolitan areas has been cared for in the report.

I believe I speak for tens of thousands of commuters in my part of the country when I express appreciation to the conferees, the chairman of the committee [Mr. MAGNUSON], the Senator from Florida [Mr. SMATHERS], the junior Senator from Ohio [Mr. LAUSCHE], and the Senator from Texas [Mr. YARBOROUGH], as well as to our colleagues on this side of the aisle, the Senator from Connecticut [Mr. PURTELL], the Senator from Kansas [Mr. SCHOEPEL], and the Senator from Ohio [Mr. BRICKER], who has just spoken, for the very constructive manner in which they reached a solution of this problem.

I believe that the commuter branches need help, especially from States and municipalities. It is my intention, once the conference report is approved—which I hope will be shortly—to introduce proposed legislation which would insure to the commuter carrying roads any tax abatement which they obtain locally, by providing that the Federal Government shall not take the benefit of it in its own taxes. That is a recommendation contained in the very distinguished report of the subcommittee of the Senator from Florida.

Mr. MANSFIELD. Mr. President, I wish to join the distinguished Senator from Ohio and the distinguished Senator from New York in expressing the thanks of the Senate for the fine work performed by the subcommittee under the distinguished chairmanship of the Senator from Florida [Mr. SMATHERS] in bringing about an equitable solution of this very vexing and difficult problem.

Also I feel that the distinguished Senator from Washington [Mr. MAGNUSON], chairman of the full committee, is to be commended for the overall guidance he furnished. I think the committee has done a good job, and that the Congress can be very well satisfied with the results.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

TAX RELIEF TO CERTAIN RAILROADS IN CONNECTION WITH COMMUTER SERVICE

Mr. JAVITS. Mr. President, I introduce for appropriate reference a bill to grant a form of tax relief to the railroads which will encourage continuation of efficient passenger commuter service and enable many lines to deal with sizable losses incurred in such operations.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 4200) to amend the Internal Revenue Code of 1954 so as to

permit railroad corporations to take full advantage of tax relief measures enacted or granted by the States and their political subdivisions, introduced by Mr. JAVITS, was received, read twice by its title, and referred to the Committee on Finance.

Mr. JAVITS. The bill would amend the Internal Revenue Code of 1954 to assure that where States and municipalities grant tax relief to railroads operating such services at a loss, such assistance would directly benefit the railroads and not be absorbed by increased Federal taxes. I believe that Congress has an increased responsibility to provide this type of tax relief following final approval of the Transportation Act of 1958 in the Senate today. It retains a House amendment similar to one I offered unsuccessfully in the Senate, which authorizes the Interstate Commerce Commission to consider public convenience and necessity, as well as the fact that a passenger-service branch may operate at a net loss when weighing a railroad's request to discontinue such service. Commuter service should be rendered where at all practicable, and not eliminated solely because it is run unprofitably, unless such an operation places an unreasonable burden on the financial stability of the entire railroad. I am very glad to see the kind of job the conferees did, especially in taking cognizance of the rights and interests of commuters. In this way the Transportation Act makes a positive contribution toward protecting the interests of millions who depend daily on passenger commuter service. But now it is the duty of the Congress to follow through with helping to get positive financial aid for those railroads which must continue to operate such services at substantial losses because it is deemed to be demanded by public convenience and necessity. Some of such relief is provided in the bill and some of it will come from tax abatement.

Enactment of this measure would prove a powerful stimulus in persuading States and localities to offer forms of tax exemption and tax abatement to railroads operating essential but unprofitable commuter passenger services within their boundaries. They would do so in the realization that the beneficiaries of such assistance would be the railroads which need it to operate and that the Federal Government would not siphon off in increased Federal taxes large portions of these funds, which previously fed State and municipal treasuries.

The alternative to Federal legislation of this kind is sitting back and watching the railroads and Government authorities argue endlessly over failure to provide adequate passenger, especially commuter, services, demands for increased commuter fares, proposals for abrupt cancellations of commuter branch operations, and mounting losses that in many cases jeopardize the financial structure of the entire line. We cannot allow that to happen if we are to safeguard adequately the riding public's interest and that of the railroads, a vital element in our national transportation situation in our prosperity and in our defense. One can never draw a nice bal-

ance between the "break even" point and a slight profit. Every municipality which wishes to give tax abatement can judge that question for itself. Therefore we should not make it possible for a portion of the benefit resulting from local tax abatement to come back to the Federal Government in the form of increased Federal taxes.

This has been recommended in the Smathers report, which I point out as a great landmark in this field.

The Public Service Commission of my own State of New York has come forward in favor of this kind of legislation, in a report entitled "Report of Investigation by the Public Service Commission of the Long Island Railroad," dated March 3, 1958.

I ask unanimous consent to have printed in the RECORD at this point as a part of my remarks, a concurrent resolution adopted by the New York State Legislature, memorializing Congress to enact appropriate legislation affecting the railroad industry, which also deals with the proposed legislation which I am introducing today.

There being no objection, the concurrent resolution was ordered to be printed in the RECORD, as follows:

Senate Concurrent Resolution 153

Concurrent resolution adopted by the New York State Legislature memorializing Congress to enact appropriate legislation affecting the railroad industry

Whereas the railroad industry in the State of New York because of the vast service it provides the public as transporter of passengers and freight, as employer of more than 100,000 persons earning over \$430 million annually, as a taxpayer contributing \$45 million annually in real estate and special franchise taxes in the State, and as purchaser and consumer of goods and services amounting to hundreds of millions of dollars annually, plays a tremendously vital role in the economy of our State and Nation; and

Whereas it has become generally recognized that the railroad industry is in a precarious financial situation warranting immediate action by government at all levels; and

Whereas a recent report of the Public Service Commission of the State of New York confirms that "the entire ailing passenger transportation industry is badly in need of resuscitative governmental assistance"; and

Whereas there are pending before the New York State Legislature several proposals designed to provide equitable tax relief to the railroads so as to place them on a basis more nearly competitive with other forms of transportation; and

Whereas it is essential to the economy of our State and Nation that the railroads continue to operate under private ownership earning a fair rate so as to avoid the alternative of public ownership at incalculable cost to the public; Now, therefore, be it

Resolved, That the Congress of the United States be memorialized to enact appropriate legislation to (a) obviate archaic controls originally enacted in an era when the railroad industry enjoyed a transportation monopoly, so as to permit the industry to fairly compete with other forms of transportation which are so substantially subsidized by public funds or facilities; (b) amend the Internal Revenue law to make available to the railroad industry the full advantage of any subsidy or tax foregone which may be provided by this or any State; (c) repeal the Federal excise tax on freight transportation and the Federal ex-

to ship their cargoes on vessels of members of the conference exclusively and the higher of which is charged to those who do not.

This bill would become effective immediately upon enactment, and would continue in effect only until June 30, 1960. This is interim legislation to provide a reasonable time for thorough study of the entire operation of steamship conferences and their practices, the first in 44 years.

It is not the intent of the committee to circumvent the recent ruling of the Supreme Court in the *Isbrandtsen* case, since the Court in that instance decided the question before it on the very narrow grounds on which it was brought. The majority opinion did not set aside the dual-rate system, nor conferences as such, but merely stated that it decided as it did:

In view of the fact that in the present case the dual-rate system was instituted for the purpose of curtailing *Isbrandtsen's* competition.

This consideration, moreover, is particularly compelling in light of our present holding. Since, as we hold, section 14 third strikes down dual-rate systems only where they are employed as predatory devices.

Our committee simply wants time to study this matter. The bill would permit existing conferences and dual-rate arrangements to continue in effect until June 30, 1960. There are about 60 such conferences. The recent Supreme Court decision dealt with only one of them. However, the decision might raise questions with respect to the others and could result in chaos and confusion in the industry unless the pending measure is approved. I urge the House to approve the bill.

Mr. BONNER. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BONNER: Page 1, line 8, after the word "on", strike out the words "the effective date of this amendment" and in lieu thereof insert the words "May 19, 1958."

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

House Resolution 652 was laid on the table.

GENERAL LEAVE TO EXTEND

Mr. BONNER. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may have until midnight tonight to file a report on S. 4036.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

DEPARTMENT OF JUSTICE MOVING TO RESOLVE SMALL-BUSINESS PROBLEMS OF ASCAP MEMBERS

(Mr. ROOSEVELT asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. ROOSEVELT. Mr. Speaker, during March and April of this year Subcommittee No. 5 of the House Small Business Committee, of which I am privileged to be chairman, held a series of hearings relating to the policies of the American Society of Composers, Authors, and Publishers. During the course of these hearings evidence was developed which pointed to the serious competitive handicaps under which the smaller composers and publishers were required to operate. In many instances these handicaps appeared to stem from regulations and policies issued and applied by ASCAP.

At the conclusion of the hearings a complete set of the record of the evidence was supplied promptly to the Antitrust Division, Department of Justice, which agency had obtained a decree against ASCAP during March of 1950.

The testimony and evidence developed by the subcommittee showed that the Antitrust Division certainly would be warranted in studying this evidence with the view in mind of determining whether it should initiate further corrective action in order to preserve or restore the ability of the smaller composers and publishers to remain in business.

Since the continued existence of literally hundreds of smaller publishers and composers may well depend upon the nature of the action taken by the Department, I feel that they are entitled to know about any such action being undertaken. For this reason I am pleased to announce that I have been given to understand that the Antitrust Division is now negotiating with ASCAP representatives in an effort to resolve those competitive problems which were shown to exist by the Subcommittee's hearings.

It is heartening to learn that the Department of Justice has moved along these lines although certainly I had hoped that final action could have been taken long before this date.

It is my intention to watch eagerly the result of these negotiations in order to learn whether they will be successful in bringing about a situation wherein the smaller members of the industry can survive and compete with an acceptable degree of effectiveness.

HOURLY MEETING TOMORROW

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 11 o'clock tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CAMPAIGN EXPENDITURES

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent for the present consideration of House Resolution 656.

The Clerk read the resolution, as follows:

Resolved, That a special committee of five Members be appointed by the Speaker of the House of Representatives to investigate and report to the House not later than January 3, 1959, with respect to the following matters:

(1) The extent and nature of expenditures made by all candidates for the House of Representatives in connection with their campaign for nomination and election to such office.

(2) The amounts subscribed, contributed, or expended, and the value of services rendered, and facilities made available (including personal services, use of advertising space, radio and television time, office space, moving-picture films, and automobile and any other transportation facilities) by any individual, individuals, or group of individuals, committee, partnership, corporation, or labor union, to or on behalf of each such candidate in connection with any such campaign or for the purpose of influencing the votes cast or to be cast at any convention or election held in 1958 to which a candidate for the House of Representatives is to be nominated or elected.

(3) The use of any other means or influence (including the promise or use of patronage) for the purpose of aiding or influencing the nomination or election of any such candidates.

(4) The amounts, if any, raised, contributed, and expended by any individual, individuals, or group of individuals, committee, partnership, corporation, or labor union, including any political committee thereof, in connection with any such election, and the amounts received by any political committee from any corporation, labor union, individual, individuals, or group of individuals, committee, or partnership.

(5) The violations, if any, of the following statutes of the United States:

(a) The Federal Corrupt Practices Act.

(b) The act of August 2, 1939, as amended, relating to pernicious political activities, commonly referred to as the Hatch Act.

(c) The provisions of section 304, Public Law 101, 80th Congress, chapter 120, 1st session, referred to as the Labor Management Relations Act, 1947.

(d) Any statute or legislative act of the United States or of the State within which a candidate is seeking nomination or reelection to the House of Representatives, the violation of which Federal or State statute, or statutes, would affect the qualification of a Member of the House of Representatives within the meaning of article I, section 5, of the Constitution of the United States.

(6) Such other matters relating to the election of Members of the House of Representatives in 1958, and the campaigns of candidates in connection therewith, as the committee deems to be of public interest, and which in its opinion will aid the House of Representatives in enacting remedial legislation, or in deciding contests that may be instituted involving the right to a seat in the House of Representatives.

(7) The committee is authorized to act upon its own motion and upon such information as in its judgment may be reasonable or reliable. Upon complaint being made to the committee under oath, by any person, candidate, or political committee, setting

forth allegations as to facts which, under this resolution, it would be the duty of said committee to investigate, the committee shall investigate such charges as fully as though it were acting upon its own motion, unless, after a hearing upon such complaint, the committee shall find that the allegations in such complaint are immaterial or untrue. All hearings before the committee, and before any duly authorized subcommittee thereof, shall be public, and all orders and decisions of the committee, and of any such subcommittee shall be public.

For the purpose of this resolution, the committee, or any duly authorized subcommittee thereof, is authorized to hold such public hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the 85th Congress, to employ such attorneys, experts, clerical, and other assistants, to require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to administer such oaths, and to take such testimony as it deems advisable. Subpenas may be issued under the signature of the chairman of the committee or any subcommittee, or by any member designated by such chairman and may be served by any person designated by any such chairman or member.

(8) The committee is authorized and directed to report promptly any and all violations of any Federal or State statutes in connection with the matters and things mentioned herein to the Attorney General of the United States in order that he may take such official action as may be proper.

(9) Every person who, having been summoned as a witness by authority of said committee or any subcommittee thereof, willfully makes default, or who having appeared, refuses to answer any question pertinent to the investigation heretofore authorized, shall be held to the penalties prescribed by law.

That said committee is authorized and directed to file interim reports whenever in the judgment of the majority of the committee, or of a subcommittee conducting portions of said investigation, the public interest will be best served by the filing of said interim reports, and in no event shall the final report of said committee be filed later than January 3, 1959, as hereinabove provided.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

Mr. GROSS. Mr. Speaker, reserving the right to object, this is a resolution that is offered every 2 years; is that not correct?

Mr. MCCORMACK. Yes; that is correct.

Mr. MARTIN. Mr. Speaker, will the gentleman yield?

Mr. GROSS. I yield.

Mr. MARTIN. I might say to the gentleman from Iowa that this is the resolution that generally comes up when we are about ready to adjourn and I hope that is what it indicates at this time.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MAKING EQUITY CAPITAL AND LONG-TERM CREDIT MORE READILY AVAILABLE FOR SMALL-BUSINESS CONCERNS

Mr. SPENCE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 3651) to make equity capital and long-term credit more readily available for small-business concerns, and for other purposes, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky? [After a pause.] The Chair hears none and appoints the following conferees: MESSRS. SPENCE, BROWN of Georgia, PATMAN, RAINS, KILBURN, McDONOUGH, and WIDNALL.

TRANSPORTATION ACT OF 1958

Mr. HARRIS. Mr. Speaker, I call up the conference report on the bill (S. 3778) to amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 24, 1958.)

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

HON. GEORGE H. CHRISTOPHER

Mr. CANNON. Mr. Speaker, in the extension of my remarks on the Honorable GEORGE H. CHRISTOPHER, included in the CONGRESSIONAL RECORD at page A6671 on July 24, 1958, I inadvertently failed to include the following letter from Mr. Julius Helm of the Missouri State Rural Electrification Association:

MISSOURI STATE RURAL
ELECTRIFICATION ASSOCIATION,
Jefferson City, Mo., March 31, 1958.

HON. GEORGE H. CHRISTOPHER,
House Office Building,
Washington, D. C.

DEAR GEORGE: May I take this opportunity to express my personal appreciation, and the appreciation of all the REA co-op officials throughout the State, for the wonderful help you gave us during the congressional committee hearings in Washington last week. As you so ably pointed out to the committee during your interrogation of various witnesses, it is difficult to understand why the farmer, through no fault of his own, has become the victim of the worst cost-price squeeze in the history of the country while practically every other segment of the national economy has been experiencing unprecedented prosperity. As you stated so forcefully during the hearings, this certainly

is no time to place a greater financial burden upon the farmer by increasing his electric utility bill, regardless of how small the increase may seem to some people.

George, I want to reiterate as sincerely and honestly as I know how our appreciation for the consistent and wholehearted support you have always given the rural electrification and Federal power programs. It is my firm conviction that if it were not for such fearless and dedicated individuals, who are not afraid to stand up on the floor of Congress and be counted, that sooner or later legislation would be enacted that would cause the rates of the REA cooperatives to be so high that only a very few farmers could afford the blessings of electricity.

Any time you are in Jefferson City I wish you would drop by for a visit.

Sincerely yours,

JULIUS HELM,
General Manager.

EAST KENTUCKY OR EAST OF SUEZ

(Mr. SILER asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. SILER. Mr. Speaker, at the beginning of this 85th Congress I sought and received a place on the House Banking and Currency Committee. My purpose was to get into a position where I could work with others on that committee, having jurisdiction over financial aid to commerce and industry, toward offering the House a piece of legislation that would try to give assistance to the industrially depressed areas of our country. The present bill, S. 3683, to be known as the Area Development Act is that proposed legislation and many legislators and technicians have worked faithfully on it for presentation to this body whenever the leadership of the House is willing for this to be done.

Along with many others here in the House, I myself come from a depressed area. Such an area is one where the levee of misfortune is so high that the flood tide of prosperity never spills over into its little valley of despondency. It is a place where the jam is never quite down on the lower shelf. It is a hungry breadline in the midst of a land flowing with milk and honey. It is a woodland where the nightingale of hope does not sing any more because the mockingbird of despair has taken over and filled up the air with all the dirges of the doomed and the desperate. The rest of the country may be gloriously riding upon a high and happy crest of prosperity, yet here and there exist a few little black spots where the word prosperity is merely something to be read in the newspapers but never experienced in a pluribus unum reality.

Now there is nothing wrong with the terrain or substance of the physical land in these various depressed areas of the rolls in verdant beauty, abounds in mineral wealth, rises high in magnificent mountain peaks. Yet, paradoxically it is something of a barren desert, that is to say, a desert in the matter of employment opportunities for its citizens. Eastern Kentucky lost about 92,000 people between 1950 and 1956, or more than

Public Law 85-625
85th Congress, S. 3778
August 12, 1958

AN ACT

To amend the Interstate Commerce Act, as amended, so as to strengthen and improve the national transportation system, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Transportation Act of 1958".

Transportation
Act of 1958.

AMENDMENT TO INTERSTATE COMMERCE ACT, RELATING TO LOAN
GUARANTIES

SEC. 2. The Interstate Commerce Act, as amended, is amended by inserting immediately after part IV thereof the following new part: 56 Stat. 284.
49 USC 1001.

"PART V

"PURPOSE

"SEC. 501. It is the purpose of this part to provide for assistance to common carriers by railroad subject to this Act to aid them in acquiring, constructing, or maintaining facilities and equipment for such purposes, and in such a manner, as to encourage the employment of labor and to foster the preservation and development of a national transportation system adequate to meet the needs of the commerce of the United States, of the postal service, and of the national defense.

"DEFINITIONS

"SEC. 502. For the purposes of this part—

"(a) The term 'Commission' means the Interstate Commerce Commission.

"(b) The term 'additions and betterments or other capital expenditures' means expenditures for the acquisition or construction of property used in transportation service, chargeable to the road, property, or equipment investment accounts, in the Uniform System of Accounts prescribed by the Interstate Commerce Commission.

"(c) The term 'expenditures for maintenance of property' means expenditures for labor, materials, and other costs incurred in maintaining, repairing, or renewing equipment, road, or property used in transportation service chargeable to operating expenses in accordance with the Uniform System of Accounts prescribed by the Commission.

72 Stat. 568.

72 Stat. 569.

"LOAN GUARANTIES

"SEC. 503. In order to carry out the purpose declared in section 501, the Commission, upon terms and conditions prescribed by it and consistent with the provisions of this part, may guarantee in whole or in part any public or private financing institution, or trustee under a trust indenture or agreement for the benefit of the holders of any securities issued thereunder, by commitment to purchase, agreement to share losses, or otherwise, against loss of principal or interest on any loan, discount, or advance, or on any commitment in connection therewith, which may be made, or which may have been made, for the purpose of aiding any common carrier by railroad subject to this Act in the financing or refinancing (1) of additions and betterments or other capital expenditures, made after January 1, 1957, or to reimburse the carrier for expenditures made from its own funds for such additions and betterments or other capital expenditures, or (2) of expenditures for the maintenance of property: *Provided*, That in no event shall the

aggregate principal amount of all loans guaranteed by the Commission exceed \$500,000,000.

“LIMITATIONS

“SEC. 504. (a) No guaranty shall be made under section 503—

“(1) unless the Commission finds that without such guaranty, in the amount thereof, the carrier would be unable to obtain necessary funds, on reasonable terms, for the purposes for which the loan is sought;

“(2) if in the judgment of the Commission the loan involved is at a rate of interest which is unreasonably high;

“(3) if the terms of such loan permit full repayment more than fifteen years after the date thereof; or

“(4) unless the Commission finds that the prospective earning power of the applicant carrier, together with the character and value of the security pledged, if any, furnish reasonable assurance of the applicant's ability to repay the loan within the time fixed therefore and reasonable protection to the United States.

A statement of the findings of the Commission required under the provisions of this subsection shall be made a matter of public record by the Commission with respect to each loan guaranteed under the provisions of this part.

“(b) It shall be unlawful for any common carrier by railroad subject to this Act to declare any dividend on its preferred or common stock while there is any principal or interest remaining unpaid on any loan to such carrier made for the purpose of financing or refinancing expenditures for maintenance of property of such carrier, and guaranteed under this part.

“MODIFICATIONS

“SEC. 505. The Commission may consent to the modification of the provisions as to rate of interest, time of payment of interest or principal, security, if any, or other terms and conditions of any guaranty which it shall have entered into pursuant to this part, or the renewal or extension of any such guaranty, whenever the Commission shall determine it to be equitable to do so.

“PAYMENT OF GUARANTIES; ACTION TO RECOVER PAYMENTS MADE

“SEC. 506. (a) Payments required to be made as a consequence of any guaranty by the Commission made under this part shall be made by the Secretary of the Treasury from funds hereby authorized to be appropriated in such amounts as may be necessary for the purpose of carrying out the provisions of this part.

“(b) In the event of any default on any such guaranteed loan, and payment in accordance with the guaranty by the United States, the Attorney General shall take such action as may be appropriate to recover the amount of such payments, with interest, from the defaulting carrier, carriers, or other persons liable therefor.

“GUARANTY FEES

“SEC. 507. The Commission shall prescribe and collect a guaranty fee in connection with each loan guaranteed under this part. Such fees shall not exceed such amounts as the Commission estimates to be necessary to cover the administrative costs of carrying out the provisions of this part. Sums realized from such fees shall be deposited in the Treasury as miscellaneous receipts.

“ASSISTANCE OF DEPARTMENTS OR OTHER AGENCIES

“SEC. 508. (a) To permit it to make use of such expert advice and services as it may require in carrying out the provisions of this part, the Commission may use available services and facilities of departments and other agencies and instrumentalities of the Government, with their consent and on a reimbursable basis.

“(b) Departments, agencies, and instrumentalities of the Government shall exercise their powers, duties, and functions in such manner as will assist in carrying out the objectives of this part.

“ADMINISTRATIVE EXPENSES

“SEC. 509. Administrative expenses under this part shall be paid from appropriations made to the Commission for administrative expenses.

“TERMINATION OF AUTHORITY

“SEC. 510. Except with respect to such applications as may then be pending, the authority granted by this part shall terminate at the close of March 31, 1961: *Provided*, That its provisions shall remain in effect thereafter for the purposes of guaranties made by the Commission.”

AMENDMENTS TO SECTION 1 OF INTERSTATE COMMERCE ACT

SEC. 3. Section 1 of the Interstate Commerce Act, as amended, is amended (1) by inserting in subparagraph (a) of paragraph (2) thereof, after the word “aforesaid” and before the semicolon following that word, a comma and the words “except as otherwise provided in this part” and (2) by striking out the period at the end of the proviso in subparagraph (a) of paragraph (17) thereof and inserting in lieu thereof the following: “and except as otherwise provided in this part.” 49 USC 1.

INTRASTATE RATES, FARES, CHARGES, CLASSIFICATIONS, REGULATIONS, OR PRACTICES

SEC. 4. The first sentence of paragraph (4) of section 13 of the Interstate Commerce Act, as amended, is amended to read as follows:

“(4) Whenever in any such investigation the Commission, after full hearing, finds that any such rate, fare, charge, classification, regulation, or practice causes any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce on the one hand and interstate or foreign commerce on the other hand, or any undue, unreasonable, or unjust discrimination against, or undue burden on, interstate or foreign commerce (which the Commission may find without a separation of interstate and intrastate property, revenues, and expenses, and without considering in totality the operations or results thereof of any carrier, or group or groups of carriers wholly within any State), which is hereby forbidden and declared to be unlawful, it shall prescribe the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice thereafter to be observed, in such manner as, in its judgment, will remove such advantage, preference, prejudice, discrimination, or burden: *Provided*, That upon the filing of any petition authorized by the provisions of paragraph (3) hereof to be filed by the carrier concerned, the Commission shall forthwith institute an investigation as aforesaid into the lawfulness of such rate, fare, charge, classification, regulation, or practice

72 Stat. 570.
72 Stat. 571.

(whether or not theretofore considered by any State agency or authority and without regard to the pendency before any State agency or authority of any proceeding relating thereto) and shall give special expedition to the hearing and decision therein."

NEW SECTION 13A OF INTERSTATE COMMERCE ACT

49 USC 13.

SEC. 5. The Interstate Commerce Act, as amended, is amended by inserting after section 13 thereof a new section 13a as follows:

"DISCONTINUANCE OR CHANGE OF CERTAIN OPERATIONS OR SERVICES

"SEC. 13a. (1) A carrier or carriers subject to this part, if their rights with respect to the discontinuance or change, in whole or in part, of the operation or service of any train or ferry operating from a point in one State to a point in any other State or in the District of Columbia, or from a point in the District of Columbia to a point in any State, are subject to any provision of the constitution or statutes of any State or any regulation or order of (or are the subject of any proceeding pending before) any court or an administrative or regulatory agency of any State, may, but shall not be required to, file with the Commission, and upon such filing shall mail to the Governor of each State in which such train or ferry is operated, and post in every station, depot or other facility served thereby, notice at least thirty days in advance of any such proposed discontinuance or change. The carrier or carriers filing such notice may discontinue or change any such operation or service pursuant to such notice except as otherwise ordered by the Commission pursuant to this paragraph, the laws or constitution of any State, or the decision or order of, or the pendency of any proceeding before, any court or State authority to the contrary notwithstanding. Upon the filing of such notice the Commission shall have authority during said thirty days' notice period, either upon complaint or upon its own initiative without complaint, to enter upon an investigation of the proposed discontinuance or change. Upon the institution of such investigation, the Commission, by order served upon the carrier or carriers affected thereby at least ten days prior to the day on which such discontinuance or change would otherwise become effective, may require such train or ferry to be continued in operation or service, in whole or in part, pending hearing and decision in such investigation, but not for a longer period than four months beyond the date when such discontinuance or change would otherwise have become effective. If, after hearing in such investigation, whether concluded before or after such discontinuance or change has become effective, the Commission finds that the operation or service of such train or ferry is required by public convenience and necessity and will not unduly burden interstate or foreign commerce, the Commission may by order require the continuance or restoration of operation or service of such train or ferry, in whole or in part, for a period not to exceed one year from the date of such order. The provisions of this paragraph shall not supersede the laws of any State or the orders or regulations of any administrative or regulatory body of any State applicable to such discontinuance or change unless notice as in this paragraph provided is filed with the Commission. On the expiration of an order by the Commission after such investigation requiring the continuance or restoration of operation or service, the jurisdiction of any State as to such discontinuance or change shall no longer be superseded unless the procedure provided by this paragraph shall again be invoked by the carrier or carriers.

72 Stat. 571.

72 Stat. 572.

"(2) Where the discontinuance or change, in whole or in part, by a carrier or carriers subject to this part, of the operation or service of any train or ferry operated wholly within the boundaries of a single State is prohibited by the constitution or statutes of any State or where the State authority having jurisdiction thereof shall have denied an application or petition duly filed with it by said carrier or carriers for authority to discontinue or change, in whole or in part, the operation or service of any such train or ferry or shall not have acted finally on such an application or petition within one hundred and twenty days from the presentation thereof, such carrier or carriers may petition the Commission for authority to effect such discontinuance or change. The Commission may grant such authority only after full hearing and upon findings by it that (a) the present or future public convenience and necessity permit of such discontinuance or change, in whole or in part, of the operation or service of such train or ferry, and (b) the continued operation or service of such train or ferry without discontinuance or change, in whole or in part, will constitute an unjust and undue burden upon the interstate operations of such carrier or carriers or upon interstate commerce. When any petition shall be filed with the Commission under the provisions of this paragraph the Commission shall notify the Governor of the State in which such train or ferry is operated at least thirty days in advance of the hearing provided for in this paragraph, and such hearing shall be held by the Commission in the State in which such train or ferry is operated; and the Commission is authorized to avail itself of the cooperation, services, records and facilities of the authorities in such State in the performance of its functions under this paragraph."

AMENDMENT TO SECTION 15A OF THE INTERSTATE COMMERCE ACT

SEC. 6. Section 15a of the Interstate Commerce Act, as amended, is amended by inserting after paragraph (2) thereof a new paragraph (3) as follows: 49 USC 15a.

"(3) In a proceeding involving competition between carriers of different modes of transportation subject to this Act, the Commission, in determining whether a rate is lower than a reasonable minimum rate, shall consider the facts and circumstances attending the movement of the traffic by the carrier or carriers to which the rate is applicable. Rates of a carrier shall not be held up to a particular level to protect the traffic of any other mode of transportation, giving due consideration to the objectives of the national transportation policy declared in this Act."

72 Stat. 572.

AMENDMENT TO SECTION 203 (B) OF INTERSTATE COMMERCE ACT

72 Stat. 573.

SEC. 7. (a) Clause (6) of subsection (b) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a colon and the following: "Provided, That the words 'property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof)' as used herein shall include property shown as 'Exempt' in the 'Commodity List' incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as 'Not exempt': *Provided further,* 49 USC 303.

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